

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
 SPECIAL EXCEPTION & ZONING VARIANCE * ZONING COMMISSIONER
 NEC Belair Rd. & Rossville Blvd. *
 7933-7935 Belair Road * OF BALTIMORE COUNTY
 Taco Bell *
 14th Election District * Case No. 93-472-SPHXA
 6th Councilmanic District *
 Legal Owner: Emil B. Pielke *
 Applicant: Taco Bell *
 Petitioners

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing, Special Exception and Variance for the property located at 7933-7935 Belair Road near the Perry Hall community of Baltimore County. The Petitions are filed by the subject property owner, Emil B. Pielke and the Applicant/Lessee, Taco Bell Corporation. Within the Petition for Special Exception, approval is sought for a fast food restaurant drive-thru with outdoor seating in a B.R. zone, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). In the alternative, the Petitioners seek relief under the Petition for Special Hearing to approve a fast food restaurant drive-thru with outdoor seating as permitted by right in all business zones (B.R., B.M. and B.L.). Further, under the Petition for Special Hearing, a determination is sought that the requirements of Section 409.10.B apply only to the stacking requirements per the individual use as set forth in Section 409.10.A. Lastly, significant variance relief is requested. This includes variances from the following sections:

1. From Section 238.2 of the B.C.Z.R. to permit a setback of 32 ft. between buildings in lieu of the required 60 ft.
2. From Section 301.1.A and 238.2 to permit an open projection (canopy) with a setback of 4 ft. in lieu of the required 22.5 ft. as measured from the proposed building to the lease line.

ORDER RECEIVED FOR FILING

Date

By

8/30/93
 [Signature]



477

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 7933 Belair Road

which is presently zoned BR-CS-2
BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a restaurant, drive-thru with

outdoor seating.

FAST FOOD

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

~~Contract Purchaser/Leasee~~: Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Anthony K. Byrd

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Emil B. Pielke

Signature

(Type or Print Name)

Signature

7937 Belair Road

661-6629

Address

Phone No.

Baltimore, MD

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Ave., B-7

410-494-8931

Address

Phone No.

Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

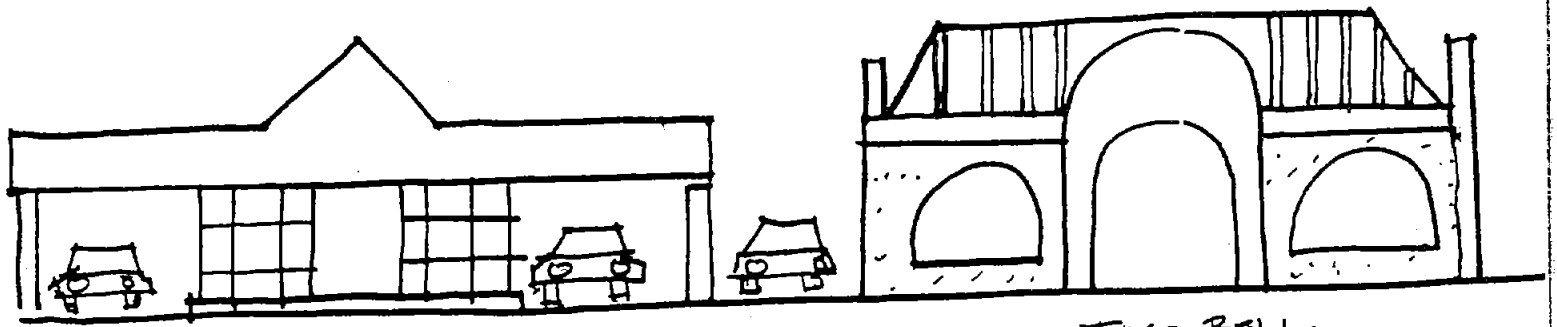
2 HRS

the following dates _____ Next Two Months

ALL ☒ OTHER ☐

REVIEWED BY: *JS* DATE: 6/24/93

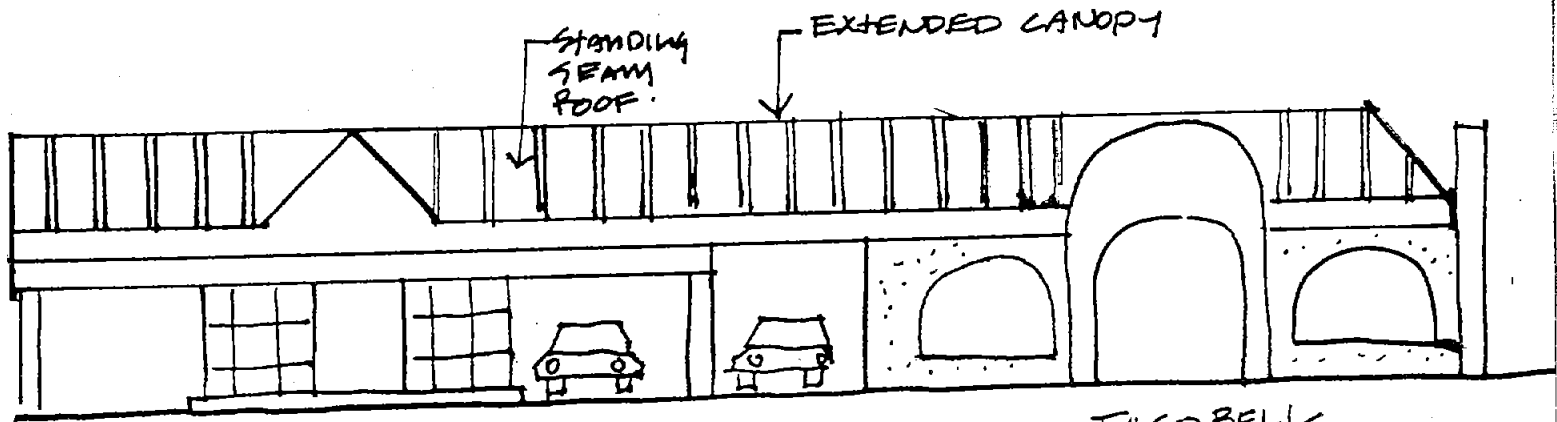




HOT AND NOW

TACO BELL

ELEVATION AS PROPOSED
NOT TO SCALE



HOT AND NOW

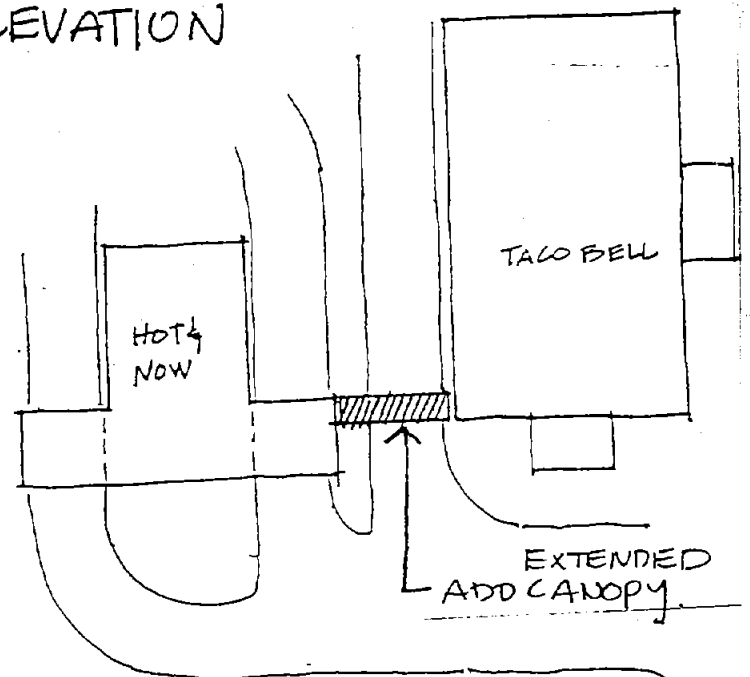
TACO BELL

RECOMMENDED ELEVATION
NOT TO SCALE

TACO BELL / HOT & NOW

Site # 05-1678 7933 BELAIR RD.
BALTIMORE COUNTY
MARYLAND

Baltimore County OFFICE OF PLANNING
CONCEPT PLAN REVIEW COMMENTS.



NOT TO SCALE.

BELAIR ROAD

D.R. 5.5

PUTTY

HILL

AVE.

N 29,000

477

BR-CS-2

BR

BL

RO

D.R. 5.5

BM-CNS

N 561,000

GRAPEHILL RD.

MARTIN AVE.

BL

BR-CS-2

BM

SITE

BR

BR

MLR-IM

MLR-IM

BM-CNS

BR-CS-2

BR

BR

D.R. 5.5

SHEETS NE 7E NE 8E

BALTIMORE COUNTY REPRESENTATIVES
SIGN-IN SHEET

ADDRESS

1894





300 West Lexington Street
Baltimore, Maryland 21201-3415

MASS TRANSIT ADMINISTRATION

May 13, 1993

Mr. Arnold Jablon
Director of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

*County
Ex No 1*

RE: Taco Bell (7933 Belair Road)

Dear Mr. Jablon:

As part of the Mass Transit Administration's "Access by Design" program, the MTA has reviewed the development plans for the referenced project. The MTA operates the No. 43 along Belair Road adjacent to the proposed development.

The MTA recommends that the developer create a bus stop with a shelter on Belair Road between Rossville and Klein according to MTA specifications. Mr. Leonard Barber of the MTA Operations Planning Department will be the contact person to coordinate implementation. He can be reached at 333-3373.

Please feel free to contact me at 333-3381 if you have any questions.

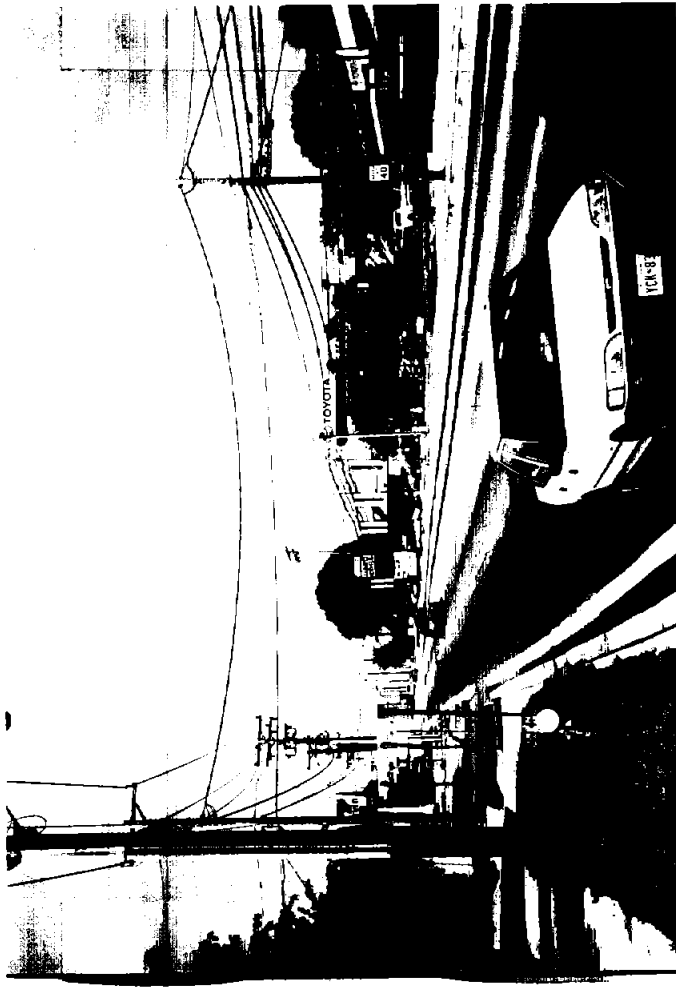
Sincerely,

Stuart M. Sirota
Project Manager

cc: Mr. Leonard Barber
Mr. Jeff Mayhew

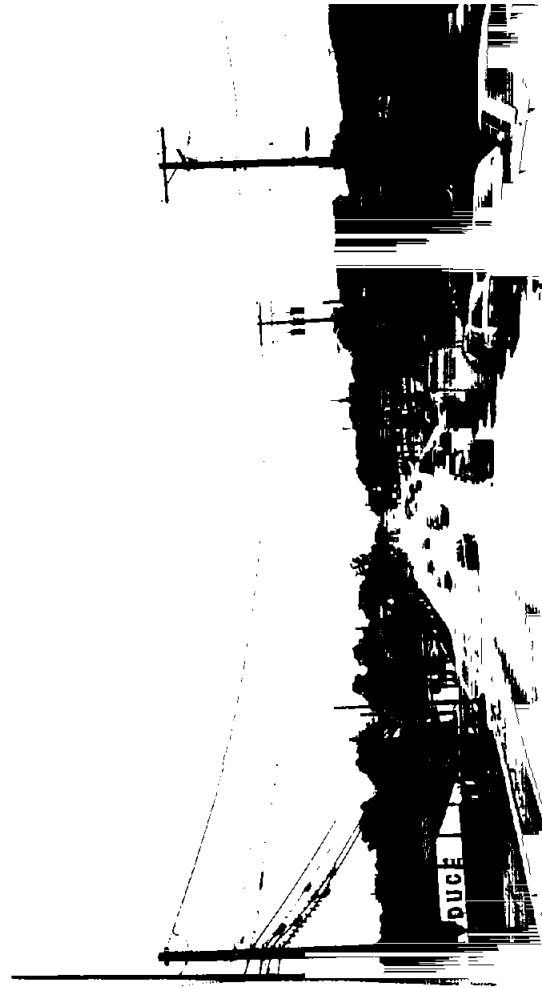
BELAIR ROAD

VIEW LOOKING NORTH



Feb 27

VIEW LOOKING SOUTH



WILLIAM MONK, INC.

Courthouse Commons
222 Bosley Avenue, Suite B-7
TOWSON, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ADJACENT LAND USE

**OFFICE
CONVERTED DWELLING
NORTH SIDE**



*Plot
24*

EAST SIDE



WILLIAM MONK, INC.
Courthouse Commons

222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ADJACENT LAND USE

NORTH SIDE

Baker



**WEST SIDE
BELAIR ROAD**



WILLIAM MONK, INC.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

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Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ROSSVILLE BOULEVARD

VIEW LOOKING WEST



lot 2A

VIEW LOOKING EAST





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7933 Belair Road

which is presently zoned BR-CS-2
BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

(1) SECTION 238.2 TO PERMIT A SETBACK OF 32' BETWEEN BUILDINGS IN LIEU OF THE REQUIRED 60' (2) A VARIANCE TO SECTION 301.1(A) AND 238.2 TO PERMIT AN OPEN PROJECTION (CANOPY) WITH A SETBACK OF 4 FEET IN LIEU OF THE REQUIRED 22.5 FEET MEASURED FROM THE PROPOSED BUILDING TO THE LEASE LINE. (3) SECTION 409.10 (B) TO PERMIT THE DRIVE-THRU LANE TO CROSS THE PRINCIPAL PEDESTRIAN ACCESS TO THE FACILITY. (4) SECTION 409.6 A(2) TO PERMIT 45 PARKING SPACES IN LIEU OF THE REQUIRED 64 SPACES. (5) SECTION 413.2 (F) TO PERMIT 316 SQ. FT. OF BUSINESS SIGNS IN LIEU OF THE MAXIMUM PERMITTED 100 SQ. FT. AND TO PERMIT 16 SIGNS (1 FREE STANDING, 7 DIRECTIONAL SIGNS, 2 SPEAKER POSTS AND 3 MENU BOARDS IN LIEU OF THE MAXIMUM PERMITTED 3 SIGNS ON ANY PREMISES). (6) A VARIANCE IS REQUESTED TO SECTION 413.1 E(3) TO PERMIT INTERNALLY ILLUMINATED DIRECTIONAL SIGNAGE WITH ADVERTISING ASPECTS (LOGO) IN LIEU OF PERMITTED NON-ILLUMINATED DIRECTIONAL SIGNAGE WITH NO ADVERTISING ASPECT.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee: Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Signature

(Type or Print Name)

Signature

7937 Belair Road

Address

661-6629

Phone No.

Baltimore, MD

City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Avenue, Suite B-7 494-8931

Address Phone No.
Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

WILLIAM MONK, INC.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

BELAIR ROAD

VIEW LOOKING NORTH



Ref 23

VIEW LOOKING SOUTH



Baltimore County Government
Office of Zoning Administration
and Development Management



Red No 3

111 West Chesapeake Avenue
Towson, MD 21204

May 27, 1993

(410) 887-3353

Mr. William P. Monk
William Monk, Inc.
Courthouse Commons - Suite B-7
222 Bosley Avenue
Towson, MD 21204

Re: Limited Exemption Approval - Plan required
Taco Bell/Hot-N-Now Restaurants
7933 Belair Rd - 14C6 - DRC No. 5243E

Dear Mr. Monk:

On May 24, 1993, the Development Review Committee reviewed the plan submitted on the above referenced project and determined it to be a Limited Exemption under Section 26-171(b) of the Baltimore County Development Regulations. This exempts your development from the Community Input Meeting (CIM) and the Hearing Officer's Hearing (HOH). The \$40.00 fee receipt is enclosed.

The following requirements are necessary to further process your development plan:

1. Submit two (2) check prints of the plan, prepared in accordance with Sec. 26-203 of the Baltimore County Development Regulations to:
Zoning Administration and Development Management, County Office Building,
Room 123, 111 West Chesapeake Ave., Towson, MD
2. Submit a copy of this Limited Exemption Approval letter together with the check prints.

Your plan will then be reviewed. If any changes are necessary you will be instructed to revise the check print, at which time, you may continue in accordance with the following:

3. After the check print plan has been corrected and accepted, twenty two (22) copies of the revised plan must be submitted to the Bureau of Public Services (see address above).
4. The development plan review fee is \$1,344.00 (Fee schedule effective 4/1/92, Baltimore County Code, Section 15.9(c)). Payment can be either a certified or cashier's check made payable to Baltimore County, MD, and must accompany submittal of the 22 copies of the plan.



William P. Monk

Re: Taco Bwell, et al - Ltd Exemption DRC #5243E

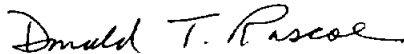
5/27/93

p. 2

Also enclosed are comments from the State Highway Administration (SHA) for your attention.

If you have any questions, please do not hesitate to call me at 410-887-3353.

Respectfully submitted,



Donald T. Rascoe, Manager
Development Management

DTR:ggl

Enc.

c: Taco Bell Corp./NE Zone
620 Herndon Parkway - Suite 200
Herndon, VA 22070
TACOBELL/TXTGGL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

July 22, 1993

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #477
Taco Bell, 7933 Belair Road
Zoning Advisory Committee Meeting of July 12, 1993

Ret No 4

~~The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:~~

1. Development of the property must comply with the Forest Conservation Regulations.
2. Existing underground storage tanks must be shown on the Development Plan with a note stating that tanks shall be removed under permit prior to razing.

JLP:jbm

TACOBELL/TXTSBP

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

(410) 887-3733

July 27, 1993

Mr. Benjamin Brockway
Biota
3746 Peach Orchard Road
Street, Maryland 21154

Re: Forest Conservation Worksheet
Taco Bell Site 05-1678
Rossville Blvd. at Belair Road

Dear Mr. Brockway:

The Environmental Impact Review Section has reviewed your Forest Conservation Worksheets and the following comments are made:

1. The Gross Area according to the plan is 67,306 square feet or 1.55 acres. However, calculations on your Forest Conservation Worksheet are based on 1.23 acres which you refer to as a "disturbed area". While calculations in this case may be based upon the limit of disturbance, you must show this limit on the plan so that we can verify your information.
2. A note should be placed on the grading plan as follows:
'Compliance with the Forest Conservation Regulations will be met by payment of a fee in lieu of \$0.40 per square foot.'
3. Grading Permit(s) (or Building Permit(s) if applicable) will be held until the fee in lieu has been paid.

Review of your calculations will continue once you provide us with information noted in number 1 above. If you have any questions, please contact Mr. Steve Armiger at 887-3226.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia M. Farr".

Patricia M. Farr
Program Supervisor
Environmental Impact Review

PMF:SA:tmm



~~ADP/DP~~
JUN 14 1993

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

June 10, 1993

(410) 887-3733

Mr. Tunnie Ping
Windward Associates, Inc.
15 South Parke Street
Suite 400
Aberdeen, Maryland 21001

Noted No
5

RE: TACO BELL, 7933 BELAIR ROAD
Waiver Request

Dear Mr. Ping:

This is in response to your letter of May 12, 1993, requesting a waiver of storm water management requirements for the above referenced project.

This office has reviewed the material submitted with your letter and has determined that a waiver of quantity management may be granted under the provisions of Section 14-155 (c) (2) of Article V of the "Baltimore County Code of Laws". Section 14-155 (c) (2) allows granting of a waiver if the parcel of land under consideration is less than two acres in size and is surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity to accommodate the runoff from the additional development.

Water quality management must be provided for the first half-inch of runoff from all new impervious areas, and all runoff must be conveyed to suitable outfalls. Grading and building permits will not be released until a water quality plan is approved. Our take-off indicates that there will be an increase of 0.18 acres of new impervious area. (The decrease in impervious area, as reflected on your computation sheets, is not supported by the data shown on the drawings.) Infiltration is the preferred quality management practices and should not be dismissed in favor of water quality inlets without appropriate subsurface investigation and (if necessary) project reconfiguration.

If there are any questions, please contact Ed Schmaus at 887-3768.

Very truly yours,

Thomas L. Vidmar

Thomas L. Vidmar, P.E.
Chief

Bureau of Engineering Services

TLV:pms

cc: Mr. Rick Dills, Soil Conservation District
Mr. Robert Berner, Storm Drain & Construction
Ms. Pat Farr, Environmental Impact Review



COUNTY COUNCIL OF BALTIMORE COUNTY MARYLAND
LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 14

BILL NO. 110-93

MR. C. A. DUTCH RUPPERSBERGER, COUNCILMAN

By Request of the County Executive

BY THE COUNTY COUNCIL, JULY 6, 1993

A BILL
ENTITLED

Ret No 6

AN ACT concerning

Restaurants

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define various types of restaurants and other food or entertainment facilities; authorizing certain types of restaurants and other food or entertainment facilities to be located in certain zones of the County, either by right or by Special Exception; specifying the parking requirements for restaurants and other food or entertainment facilities; and generally relating to zoning requirements for restaurants and other food or entertainment facilities in Baltimore County.

BY adding

Section 101 - Definitions, the definitions of Catering Hall, Standard Restaurant, Fast Food Restaurant, Fast Food, Drive-Through Only Restaurant, Carry-Out Restaurant, Nightclub, and Tavern, alphabetically.
Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments

1. RESTAURANT, FAST FOOD: AN ESTABLISHMENT WHOSE PRINCIPAL BUSINESS IS TO
2. SELL READY-TO-CONSUME FOOD AND BEVERAGES IN DISPOSABLE CONTAINERS AND WHICH IS
3. NOT A DRIVE-IN RESTAURANT. A FAST FOOD RESTAURANT HAS SOME OR ALL OF THE
4. FOLLOWING CHARACTERISTICS:

5. A) PREPACKAGED FROZEN, CHILLED OR SEALED FOOD AND MEALS ARE COOKED IN
6. ADVANCE FOR IMMEDIATE SALE.

7. B) FOOD AND BEVERAGES ARE ORDERED OVER THE COUNTER OR BY MOTORISTS FROM
8. WITHIN THEIR VEHICLES.

9. C) FOOD AND BEVERAGES ARE CONSUMED ON THE PREMISES OF THE RESTAURANT, OR
10. WITHIN A MOTOR VEHICLE ON OR OFF THE PREMISES.

11. RESTAURANT, FAST FOOD, DRIVE-THROUGH ONLY: A FAST FOOD RESTAURANT, AS
12. DEFINED IN SECTION 101, EXCEPT THAT NO CUSTOMER SEATING IS PROVIDED INSIDE THE
13. RESTAURANT. FOOD AND BEVERAGES ARE ORDERED BY MOTORISTS FROM A DRIVE-THROUGH
14. LANE OR FROM A WALK-UP WINDOW ON THE OUTSIDE OF THE BUILDING, OR WITHIN A
15. VESTIBULE. ORDERS ARE PRIMARILY CONSUMED OFF THE PREMISES, BUT RESTAURANTS MAY
16. PROVIDE SEATING AT TABLES OUTSIDE THE BUILDING ON THE PREMISES.

17. RESTAURANT, CARRY-OUT: AN ESTABLISHMENT WHOSE PRINCIPAL BUSINESS IS THE
18. SALE OF READY-TO-CONSUME FOOD AND BEVERAGES TO CUSTOMERS WHO ORDER THEIR FOOD AND
19. BEVERAGES OVER THE COUNTER, BY TELEPHONE OR FAX MACHINE AND WHOSE PRINCIPAL
20. CHARACTERISTIC IS THAT FOOD AND BEVERAGES ARE CONSUMED OFF THE PREMISES.

21. NIGHTCLUB: A TAVERN OR OTHER COMMERCIAL ESTABLISHMENT WHICH PROVIDES
22. LIVE OR RECORDED ENTERTAINMENT, WITH OR WITHOUT A DANCE FLOOR, AND WHICH IS
23. CATEGORIZED AS A NIGHTCLUB BY THE BUILDING CODE OF BALTIMORE COUNTY.

24. TAVERN: AN ESTABLISHMENT WHICH HAS A BALTIMORE COUNTY CLASS D LIQUOR
25. LICENSE. A TAVERN WHICH MEETS THE CRITERIA OF NIGHTCLUB, AS DEFINED IN THESE
26. REGULATIONS, SHALL BE CONSIDERED A NIGHTCLUB.

1. Section 1A06 - R.C.C. (Commercial) Zones
2. 1A06.2 - Use Regulations
3. A. Uses permitted as of right.
4. 2. Commercial and service uses:
5. CARRY-OUT RESTAURANTS, STANDARD restaurants and
6. {bars} TAVERNS (except drive-in or drive-through
7. facilities);
8. Section 200.2 - Use Regulations in R.A.E. 1 Zones
9. A. Uses Permitted
10. 15. STANDARD restaurants, with no dancing or live
11. entertainment permitted
12. 15a. CARRY-OUT RESTAURANTS
13. Section 201 - R.A.E. 2 Zones
14. 201.2 - Use Regulations
15. A. Uses Permitted
16. 20. STANDARD restaurants, with dancing or entertainment
17. permitted
18. 20a. CARRY-OUT RESTAURANTS
19. B.L. Zone - Business, Local
20. Section 230 - Use Regulations
21. The following uses only are permitted (see Section
22. 230.12):

1. {Public Restaurant, but food may be served and
2. eaten on the premises only by persons seated at inside tables or counters; it may
3. not be served to persons remaining in cars.}

4. CARRY-OUT, FAST FOOD AND STANDARD RESTAURANT

5. M.L. Zone - Manufacturing, Light

6. Section 253 - Use Regulations

7. 253.1 - Uses permitted as of right.

8. C. The following auxiliary retail or service
9. uses or semi-industrial uses, provided that any such use is located in a planned
10. industrial park at least 25 acres in net area or in an I.M. district, in neither
11. case with any direct access to an arterial street other than a Class I Commercial
12. Motorway:

13. 19. CARRY-OUT, FAST FOOD, AND STANDARD
14. restaurants, except drive-in restaurants

15. 409.6 Required Number of Parking Spaces

16. A. General Requirements - The standards set forth below shall
17. apply in all zones unless otherwise noted. Where the required number of
18. off-street parking spaces is not set forth for a particular type of use, the
19. Zoning Commissioner shall determine the basis of the number of spaces to be
20. provided. When the number of spaces calculated in accordance with this
21. subsection results in a number containing a fraction, the required number of
22. spaces shall be the next highest whole number.

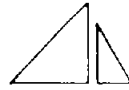
SHOULD NOT EXCLUDE
DRIVE-IN RESTAURANTS

LEGISLATED BUT
CAN PRO BEATER

- 7 -

SHOULD NOT HAVE TO DRIVE FROM AROUND
TO GET LIMIT

WINDWARD



Incorporated

ASSOCIATES

CONSULTING ENGINEERS • PLANNERS • SURVEYORS

477
93-472-SPHXA

ZONING DESCRIPTION

#7933 & 7935 BELAIR ROAD
Fourteenth Election District
Baltimore County, Maryland

BEGINNING FOR THE SAME at a point on the Easterly right of way line of Belair Road (U.S. Route 1), said point being the following two (2) courses and distances from the centerline intersection of Belair Road and Rossville Boulevard, viz:

- A. South 49° 48' 20" East, 60 feet ±
- B. North 40° 46' 51" East, 77 feet ±

Thence from the point of beginning,

- 1. North 40° 46' 51" East, 89.90 feet,
- 2. Northeasterly by a curve to the left having a Radius of 11,511.16 feet, an arc distance of 55.26 feet, subtended by a chord of North 42° 02' 36" East, 55.26 feet,
- 3. South 49° 48' 20" East, 305.26 feet,
- 4. South 39° 28' 16" West, 176.23 feet,
- 5. North 49° 48' 20" West, 277.11 feet,
- 6. North 06° 42' 08" West, 45.05 feet to the point of beginning.

CONTAINING 1.2345 Acres (53,776 Sq.Ft.) of Land more or less.



15 South Parke Street Suite 400 Aberdeen, Maryland 21001
(410) 272-1441 (410) 575-6553
272-4963 (FAX)

1. space next to the transaction station. The following are the minimum number of
2. required stacking spaces by type use:
3. Automotive Service Station As required in Section 405
4. Bank 5 for the first station, plus 2 for each
5. additional station
6. Car Wash As required in Section 419
7. Restaurant, FAST FOOD 7 per station, 5 of which must be
8. behind the order board
9. RESTAURANT, FAST FOOD, SINGLE DRIVE-THROUGH LANE:
10. DRIVE-THROUGH ONLY 1) MINIMUM OF 10 STACKING SPACES IF
11. WALK-UP WINDOW IS PROVIDED;
12. 2) MINIMUM OF 12 STACKING SPACES IF
13. THERE IS NO WALK-UP WINDOW.
14. DOUBLE-DRIVE-THROUGH LANE:
15. 1) 16 SPACES, WITH NO LESS THAN 5
16. STACKING SPACES PER LANE, IF WALK-UP
17. WINDOW IS PROVIDED;
18. 2) 20 SPACES, WITH NO LESS THAN 5
19. SPACES PER LANE, IF THERE IS NO WALK-UP
20. WINDOW.
21. Other Uses As determined by the zoning commissioner

22. B. The drive-through lane shall be distinctly marked by special
23. striping or pavement markings, and shall not block entry to or exit from
24. off-street parking spaces otherwise required on the site. The drive-through lane
25. may not cross the principal pedestrian access to the facility, EXCEPT THAT IN THE
26. CASE OF A DRIVE-THROUGH ONLY RESTAURANT WITH TWO DRIVE-THROUGH LANES, THE
27. DRIVE-THROUGH LANES ARE PERMITTED TO CROSS THE PEDESTRIAN ACCESS IF A PAINTED
28. CROSS WALK IN ASSOCIATION WITH WARNING SIGNS FOR PEDESTRIANS AND MOTORISTS IS
29. PROVIDED. THE CROSSWALK MAY NOT BE LOCATED BETWEEN VEHICLE STACKING SPACES.

30. SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take
31. effect forty-five days after its enactment.

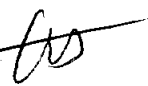
BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

DATE: February 15, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: W. Carl Richards, Jr.

FROM: Theresa R. Shelton 
Board of Appeals

SUBJECT: **James L. Hacker, et ux**
Case No.: 92-97-SPHA
Circuit Court Case No.: 94 CV 2068

Judge Hennegan of the Circuit Court issued an Order on October 26, 1994
AFFIRMING the Board of Appeals. No further appeals have been taken in this matter. The Board
of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

App-92 # 7

FILE#: 92-097-SPHA
NAME: Haker, James L., et ux
STREET: Forest Lane, 415, N/s, 130' W of c/l Newburg Ave.
TYPE: SPH-undersized lot (304.3); VAR-setbacks, lot area
DISTRICT: 1;1
DATE APPEALED: 9/11/92
HRG. DATE: 10/28/93
ORDER DATE: 2/10/94
DECISION: G -SPH /lot size; G -variances -setbacks
CLOSED:
UP: X

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744 - 3423

May 31, 1994

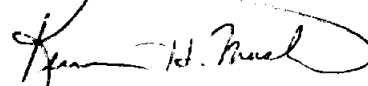
Clerk
Circuit Court for Baltimore County
County Courts Building
P.O. Box 6754
Towson, Maryland 21285-6754

Re: Petition of Frederick G. Timmel
Civil Action No. 75/152/94 CV 2068
Agency Case No.: 92-97 SPHA

Dear Madam Clerk:

Enclosed herewith please find Petitioner's Memorandum in the above matter.

Very truly yours,



KENNETH H. MASTERS

KHM:pb

enc.

cc: Francis X. Borgerding, Jr., Esquire
Kathleen C. Weidenhammer
Frederick G. Timmel

RECEIVED
COUNTY CLERK
94 JUN -1 AM 11:59

PETITION OF FREDERICK G. TIMMEL
of 410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE
DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF
IN THE MATTER OF THE
APPLICATION OF JAMES L. HAKER, ET UX.
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH
SIDE OF FOREST LANE, 130 FEET WEST OF
THE CENTERLINE OF NEWBURG AVENUE
(415 Forest Lane)
1st ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

Case No.: 92-97-SPHA

IN THE

CIRCUIT COURT

FOR

BALTIMORE

COUNTY

Civil Action

No.: 94-CV-02068/75/152

94 JUN -1 AM 11:59
COUNTY BOARD OF APPEALS

* * * * *

PETITIONER'S MEMORANDUM

Now comes the Petitioner, FREDERICK G. TIMMEL, by and through his Attorney, Kenneth H. Masters, pursuant to Maryland Rule 7-207(a), files this Memorandum in support of his Petition for Judicial Review of the Decision of the County Board of Appeals of Baltimore County.

QUESTIONS PRESENTED

1. Did the County Board of Appeals of Baltimore County err, as a matter of law, in its finding that the Petitioners, below, satisfied the requirements of Baltimore County Zoning Regulations (BCZR) Section 304 and/or Section 304.1?
2. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of BCZR Section 304 and/or Section 304.1 to the facts in this case, did the County Board of Appeals of Baltimore County err in failing to find that the Petitioners, below, are victims of a "self-inflicted injury"?

3. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of BCZR Section 304 and/or 304.1 to the facts in this case, did the County Board of Appeals of Baltimore County err in granting a front yard set back variance which will result in building of a structure that extends greater than fourteen (14) feet in front of all of the other houses oriented to Forest Lane on the subject block and, thereby, finding that such construction would "be consistent with the surrounding community"?

THE FACTS

In or about August of 1991, James L. Haker and Faye E. Haker, his wife (the Petitioners, below, and hereinafter called Hakers), as owners of the subject property known as 415 Forest Lane in Catonsville, Baltimore County, Maryland, filed a Petition for Variance to the Zoning Commissioner of Baltimore County seeking, initially, set back variances in both the front and rear yards. That Petition was later amended by a Petition filed prior to March 1992 to include an area variance pursuant to Section 304 (the section then in effect) of the Baltimore County Zoning Regulations. The minimum required lot size is 6000 square feet.

In 1939, the subject parcel was an undivided part of a larger parcel owned by Charles Wilson Lovell and Laurine Lovell. The dimensions of the entire tract were 200 feet by 64.4 feet (12,880 square feet).

In 1950, Mr. and Mrs. Lovell conveyed out, by Deed, a portion of that entire tract unto Edwin T. Johnson and Agnes A. Johnson, the dimensions of which were 110 feet by 64.4 feet (7084 square feet) "saving and excepting" the balance of the tract. That parcel is now known as 216 Newburg Avenue. The remaining portion of the "Lovell" parcel is now known as 415 Forest Lane, the dimensions of which are 90 feet by 64.4 feet (5796 square feet, or 204 square feet less than the required 6000 square feet in a D.R. 5.5 zone).

Following a series of intervening conveyances, 216 Newburg Avenue (the 7084 square foot parcel) was conveyed into the Hakers by a Deed dated October 18, 1966. Thereafter, by a Deed dated June 18, 1970, the Lovells conveyed 415 Forest Lane (the subject, undersized

property) into the Hakers. Thus, as of June 18, 1970, the two parcels, albeit in different Deeds, were then under the common ownership of the Hakers.

It should be noted at this juncture that 216 Newburg Avenue is improved by a house and garage. On the other hand, 415 Forest Lane is generally an unimproved lot, but for the existence of a barbeque pit of some sort.

The Hakers occupied 216 Newburg Avenue as their residence generally from the time of their acquisition of that property in 1966 until they conveyed 216 Newburg Avenue unto David and Karen Humes by a Deed dated February 3, 1988. The Hakers, of course, retained 415 Forest Lane under their ownership at the time of their conveyance of 216 Newburg Avenue unto David and Karen Humes (Protestants before the Deputy Zoning Commissioner and before the County Board of Appeals of Baltimore County).

As can be seen on Petitioners' Exhibit 1 (and other exhibits, as well), unlike all of the other lots fronting on the east side of Forest Lane which have narrow fronts and deep backs, 415 Forest Lane has a wide front (90 feet) and a narrow back (64.4 feet). All of the houses constructed on the east side of Forest Lane and oriented to Forest Lane (as distinguished from 216 Newburg Avenue, which is, of course, fronted on and oriented to Newburg Avenue) have a common building line. The "building envelope" proposed by the Hakers' expert, Mr. Paul Lee, with the front yard set back variance requested by the Hakers, will result in any house constructed on 415 Forest Lane protruding more than 14 feet in front of the existing building line of all of the other houses on that side of Forest Lane which are oriented to Forest Lane.

ARGUMENT

It is the contention of the Petitioner, Frederick G. Timmel, that this matter is governed, as a matter of law, by Section 304 of the Baltimore County Zoning Regulations (BCZR) inasmuch as that was the applicable regulation in effect when the initial and the amended Petitions for Variance were filed by or on behalf of the Hakers. Section 304.1 did not become effective until June of 1992. Section 304.1 was created by County Council Bill No. 47-92 and did not substantively

change the pre-existing regulation. Copies of Section 304, 304.1, and County Council Bill No. 47-92 are appended hereto and are incorporated by reference herein.

Section 304 provides as follows:

"SECTION 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]
- b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]
- c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]"

Specifically, we contend that the County Board of Appeals of Baltimore County erred as a matter of law in its failure to properly apply the provisions of Section 304. Compliance with the provisions of Section 304 is the threshold for the authority to grant the relief being sought by the Hakers.

The first sentence of Section 304 sets forth the scope of the regulation.

"A one-family dwelling may be erected on a lot having an area or width...less than that required...provided:..." (emphasis supplied).

The word "or" in that sentence takes on a particular significance when read in conjunction with subsection b.. A plain reading of the regulation reveals that relief may be granted if, and only if, all three of the conditions set forth separately in subsections a. and b. and c. are met, inasmuch as the subsections are set out in the conjunctive.

Thus, relief from less than the required area requirement may be granted or relief from width at the building line may be granted, but not both, and then, only if all three conditions of the subsections are met.

Subsection a. of Section 304 sets out two alternatives for an undersized lot. The first alternative is that

"...such lot shall have been duly recorded either by deed...prior to the adoption of these Regulations..."

The regulations were adopted in March 1955.

The record in this case is clear that from 1950 when Charles Wilson Lovell and Laurine Lovell took title to the tract comprised of what are now 216 Newburg Avenue and 415 Forest Lane, there was no other deed (duly recorded or otherwise) relating to 415 Forest Lane until that lot was conveyed by the Lovells to the Hakers in 1970. As a result, the first alternative of subsection a. of 304 was not met.

The second alternative requires

"...a validly approved subdivision prior to the adoption of these Regulations..."

The Hakers' expert, Paul Lee, opined that the "subdivision" occurred by virtue and as a result of the conveyance of July 19, 1950 when the parcel known as 216 Newburg Avenue was conveyed by the Lovells to the Johnsons, "saving and excepting" in that Deed the parcel now known as 415 Forest Lane. See Transcript, page 60.

There is no dispute that the 1950 Deed did not separately or independently describe that parcel that was "saved and excepted". See Transcript, Page 74.

Further, it is apparent that Mr. Lee used the term "subdivision" in its most garden variety or laypersons sense. See Transcript, page 73 and page 79. In effect, Mr. Lee testified that if you have a "whole" and take away a part of that whole there is a "subdivision".

That reading of the regulation requires reading out of the regulations words that were placed in the regulation , to wit, "...a validly approved subdivision...". Emphasis supplied.

If one were to adopt the position taken by Mr. Lee, those words become mere surplusage. That position begs the question, validly approved by whom?

Baltimore County has an extensive body of law and regulations detailing the subdivision approval process. See Title 26 of the Baltimore County Code. Thus, the term "subdivision" when used in the context of Section 304 a. is a term of art and for an undersized lot to be eligible for relief under the second alternative of subsection a. of Section 304, the lot had to have been "...in a validly approved subdivision..." prior to 1955. 415 Forest Lane was not in any "validly approved subdivision" prior to 1955 (see Transcript, pages 73 through 76) and consequently, the subject property is not eligible for the relief sought under either alternative in Section 304 a.

That should be the end of the matter given the conjunctive structure of the regulation.

Notwithstanding, to go on with the analysis of Section 304 it is important to look at subsection b. as it relates to the word "or" in the first sentence of Section 304. The Hakers seek relief from both the area requirement and setback relief, contrary to the plain reading of subsection b. which expressly and unequivocally states

"...That all other requirements of the height and area requirements are complied with...".

The subject property is deficient in two respects by being both undersized and in need of building line variance. Axiomatically, the subject property fails to be eligible for relief under the provisions of subsection b. of Section 304.

Additionally, it is less than clear whether the subject property is adversely affected by subsection c. This is so because the Hakers, while clearly not being the owners of "sufficient adjoining land" at the time their Petitions for Variances were filed, subjected themselves to a self-inflicted condition. They had, in fact, been the owners of "sufficient adjoining land" from 1970 into 1988.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

93-472-SPHXH

District 14th Date of Posting 7/18/93

Posted for: Special Hearing, Exception & Variance

Petitioner: Emil Pietke & Tracy Bell

Location of property: 7933-36 Belair Rd., NE cor Belair & Russell Blvd

Location of Signs: Facing road way, on property of Petitioners

Remarks: _____

Posted by W. H. Healy Date of return: 7/19/93
Signature

Number of Signs: 3

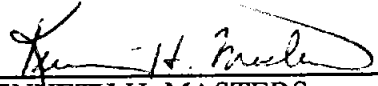


For all of the foregoing reasons, the subject property does not qualify for relief under Section 304 BCZR or under 304.1, either) and the County Board of Appeals of Baltimore County was, therefor, without the authority, as a matter of law to grant the relief prayed.

Further, the front yard set back sought by the Hakers will result, notwithstanding Mr. Lee's opinion to the contrary, in incompatibility with the neighborhood by virtue of a building line being in excess of 14 feet beyond the existing building line of every other home fronting on that side of Forest Lane. Any house built on 415 Forest Lane will be conspicuous in its nonconformity to the neighborhood.

In conclusion, the Petitioner, Frederick G. Timmel, urges this Honorable Court to reverse the County Board of Appeals of Baltimore County as a matter of law. The Hakers contend, of course, that they were justifiably misled by apparent errors in county tax records. That fact, if believed, might suffice to protect the Hakers from the language of Section 304 c., only. However, mistake of fact provides no insulation from the conjunctive requirements of the balance of Section 304 (or 304.1). The subject property simply does not meet the requirements of the regulation and the County Board of Appeals of Baltimore County erred.

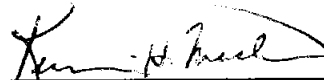
Respectfully submitted,


KENNETH H. MASTERS
Attorney for the Petitioner,
Frederick G. Timmel
1002 Frederick Road
Catonsville, Maryland 21228
(410) 788-2300

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 31st day of May, 1994, I caused to be mailed, postage prepaid, a copy of the foregoing Petitioner's Memorandum unto Francix X. Borgerding, Jr., Esquire, Attorney for the Respondents, James and Faye Haker, at

Mercantile Building, Suite 600, 409 Washington Avenue, Towson, Maryland 21204 and unto Ms. Kathleen C. Weidenhammer, Administrative Assistant, at County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.


KENNETH H. MASTERS

less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above. [B.C.Z.R., 1955.]

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]
- b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]
- c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955.]

In case of complete or partial casualty loss by fire, wind-storm, flood, or otherwise of an existing dwelling that does not comply with height and/or area requirements of the zone in which it is located, such dwelling may be restored provided area and/or height deficiencies of the dwellings¹⁵ before the casualty are not increased in any respect. [B.C.Z.R., 1955.]

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential

SECTION 304 Use of Undersized Single-Family Lots

304.1 A one-family DETACHED OR SEMI-DETACHED dwelling may be erected on a lot having an area or width at the building line less than that required by the [height and] area regulations [, provided:] CONTAINED IN THESE REGULATIONS IF:

a. [That] such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to [adoption of these Regulations; and] MARCH 30, 1955; AND

b. [That] all other requirements of the height and area regulations are complied with; and

c. [That] the owner of the lot does not own sufficient adjoining land to conform [substantially] to the width and area requirements CONTAINED IN THESE REGULATIONS.

304.2.(A) ANY PERSON DESIRING TO ERECT A DWELLING PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL FILE WITH THE OFFICE OF ZONING ADMINISTRATION, AT THE TIME OF APPLICATION FOR A BUILDING PERMIT, PLANS SUFFICIENT TO ALLOW THE OFFICE OF PLANNING AND ZONING TO PREPARE RECOMMENDATIONS IN ACCORDANCE WITH THE GUIDELINES PROVIDED IN SUBSECTION (B) BELOW. ELEVATION DRAWINGS MAY BE REQUIRED IN ADDITION TO PLANS AND DRAWINGS OTHERWISE REQUIRED TO BE SUBMITTED AS PART OF THE APPLICATION FOR A BUILDING PERMIT. PHOTOGRAPHS REPRESENTATIVE OF THE NEIGHBORHOOD WHERE THE LOT OR TRACT IS SITUATED MAY BE REQUIRED BY THE OFFICE OF PLANNING AND ZONING IN ORDER TO DETERMINE APPROPRIATENESS OF THE PROPOSED NEW BUILDING IN RELATION TO EXISTING STRUCTURES IN THE NEIGHBORHOOD.

(B) AT THE TIME OF APPLICATION FOR THE BUILDING PERMIT, AS PROVIDED ABOVE, THE DIRECTOR OF ZONING ADMINISTRATION SHALL REQUEST COMMENTS FROM THE DIRECTOR OF THE OFFICE OF PLANNING AND ZONING (THE DIRECTOR). WITHIN FIFTEEN (15) DAYS OF RECEIPT OF A REQUEST FROM THE DIRECTOR OF ZONING ADMINISTRATION, THE DIRECTOR SHALL PROVIDE TO THE OFFICE OF ZONING ADMINISTRATION WRITTEN RECOMMENDATIONS CONCERNING THE APPLICATION WITH REGARD TO THE FOLLOWING:

Post-It Fax Note	7071	Date	# of pages 1
To Ken Masters	From Stella Lowery		
Co./Dept	Co. 7 ADM		

1. 1. SITE DESIGN: NEW BUILDINGS SHALL BE APPROPRIATE IN THE
2. CONTEXT OF THE NEIGHBORHOOD IN WHICH THEY ARE PROPOSED TO BE LOCATED.
3. APPROPRIATENESS SHALL BE EVALUATED ON THE BASIS OF NEW BUILDING SIZE, LOT
4. COVERAGE, BUILDING ORIENTATION AND LOCATION ON THE LOT OR TRACT.

5. 2. ARCHITECTURAL DESIGN: APPROPRIATENESS SHALL BE EVALUATED
6. BASED UPON ONE OR MORE OF THESE ARCHITECTURAL DESIGN ELEMENTS OR ASPECTS:

7. I. HEIGHT;
8. II. BULK OR MASSING;
9. III. MAJOR DIVISIONS, OR ARCHITECTURAL RHYTHM, OF FACADES;
10. IV. PROPORTIONS OF OPENINGS SUCH AS WINDOWS AND DOORS IN
11. RELATION TO WALLS;
12. V. ROOF DESIGN AND TREATMENT; AND,
13. VI. MATERIALS AND COLORS, AND OTHER ASPECTS OF FACADE
14. TEXTURE OR APPEARANCE.

15. 3. DESIGN AMENDMENTS: THE DIRECTOR MAY RECOMMEND APPROVAL,
16. DISAPPROVAL, OR MODIFICATION OF THE BUILDING PERMIT TO CONFORM WITH THE
17. RECOMMENDATIONS PROPOSED BY THE OFFICE OF PLANNING AND ZONING.

18. 304.3 PUBLIC NOTICE. UPON APPLICATION FOR A BUILDING PERMIT PURSUANT TO
19. THIS SECTION, THE SUBJECT PROPERTY SHALL BE POSTED CONSPICUOUSLY UNDER THE
20. DIRECTION OF THE OFFICE OF ZONING ADMINISTRATION WITH NOTICE OF THE APPLICATION
21. FOR A PERIOD OF AT LEAST FIFTEEN (15) DAYS. WITHIN THE FIFTEEN (15) DAY
22. POSTING PERIOD, ANY OWNER OR OCCUPANT WITHIN 1,000 FEET OF THE LOT MAY FILE A
23. WRITTEN REQUEST FOR A PUBLIC HEARING WITH THE OFFICE OF ZONING ADMINISTRATION,
24. AND A HEARING SHALL BE SCHEDULED WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE
25. REQUEST FOR PUBLIC HEARING. THE OFFICE OF ZONING ADMINISTRATION SHALL ESTABLISH
26. APPROPRIATE FEE SCHEDULES.

1. SCHEDULED WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE REQUEST FOR PUBLIC
2. HEARING. AT THE PUBLIC HEARING, THE ZONING COMMISSIONER SHALL MAKE A
3. DETERMINATION WHETHER THE PROPOSED DWELLING IS APPROPRIATE.

4. 304.5 FINAL APPROVAL.

5. (A) THE DIRECTOR OF ZONING ADMINISTRATION MAY ISSUE THE BUILDING
6. PERMIT; OR

7. (B) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE DIRECTOR OF
8. ZONING ADMINISTRATION MAY REQUIRE A PUBLIC HEARING BEFORE THE ZONING COMMISSIONER
9. PURSUANT TO 304.4 ABOVE; OR

10. (C) IF THE OFFICE OF ZONING ADMINISTRATION HAS NOT NOTIFIED THE
11. APPLICANT OF A DETERMINATION PURSUANT TO THE PROVISIONS OF THIS SECTION, OR HAS
12. NOT NOTIFIED THE APPLICANT PURSUANT TO SUBSECTION 304.4 ABOVE OF THE INTENTION TO
13. REQUIRE A PUBLIC HEARING, THE DWELLING SHALL BE CONSIDERED APPROPRIATE FOR
14. PURPOSES OF THIS SECTION.

15. 304.6 THE DECISION OF THE ZONING COMMISSIONER OR THE DIRECTOR OF ZONING
16. ADMINISTRATION MAY BE APPEALED, IN WHICH CASE THE HEARING SHALL BE SCHEDULED BY
17. THE BOARD OF APPEALS WITHIN FORTY-FIVE (45) DAYS FROM RECEIPT OF THE REQUEST.

18. 304.7 THE DIRECTOR OF ZONING ADMINISTRATION SHALL ESTABLISH APPROPRIATE
19. FEE SCHEDULES.

20. SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect
21. forty-five days after its enactment.

BO4792/BILLS92

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955;
Bill No. 47, 1992.]

304.1--A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; and {B.C.Z.R., 1955; Bill No. 47, 1992.}
- B. all other requirements of the height and area regulations are complied with; {B.C.Z.R., 1955.}
- C. the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. [B.C.Z.R., 1955; Bill No. 47, 1992.]

304.2-A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Office of Zoning Administration, at the time of application for a building permit, plans sufficient to allow the Office of Planning and Zoning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning and Zoning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood. {Bill No. 47, 1992.}

B. At the time of application for the building permit, as provided above, the director of zoning administration shall request comments from the Director of the Office of Planning and Zoning (the director). Within fifteen (15) days of receipt of a request from the director of zoning administration, the director shall provide to the Office of Zoning Administration written recommendations concerning the application with regard to the following: {Bill No. 47, 1992.}

- 1. Site design: New buildings shall be appropriate in the context of the neighborhood in which they are proposed to be located. Appropriateness shall be evaluated on the basis of new building size, lot coverage, building orientation and location on the lot or tract.
- 2. Architectural design: Appropriateness shall be evaluated based upon one or more of these architectural design elements or aspects:
 - a. height;
 - b. bulk or massing;
 - c. major divisions, or architectural rhythm, of facades;

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
FREDERICK G. TIMMEL
410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse
400 Washington Ave., Baltimore, MD 21204

*
*
*
*
* CIVIL
ACTION
* No. 94-CV-02068
/75/152

IN THE CASE OF: IN THE MATTER OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH SIDE
OF FOREST LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 92-97-SPHA

* * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Robert O. Schuetz and S.
Diane Levero, constituting the County Board of Appeals of Baltimore
County, and in answer to the Petition for Judicial Review directed
against them in this case, herewith return the record of
proceedings had in the above-entitled matter, consisting of the
following certified copies or original papers on file in the Office
of Zoning Administration and Development Management and the Board
of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No. 92-97-SPHA RECEIVED AND FILED

August 22, 1991 94 MAY 14 PM 2:56 Petition for Special Hearing filed to
determine that Sec. 304.3 does not apply for

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

this undersized lot, as a result of circumstance, filed by James L. Haker.

October 7 Comments of Baltimore County Zoning Plans Advisory Committee.

March 2, 1992 Petition for Variance to permit a lot area of 5,796 sq. ft. in lieu of the required 6,000 sq. ft.; a rear yard of 20' in lieu of the required 30' and a front yard setback of 36.5 +/-, filed by Francis X. Borgerding, Jr., Esquire, on behalf of James L. Haker.

June 11 Publication in newspapers.

July 8 Certificate of Posting of property.

July 8 Hearing held on Petition by the Deputy Zoning Commissioner.

August 13, 1992 Order of the Deputy Zoning Commissioner in which Petition for Special Hearing is DENIED; and Petition for Variance is DISMISSED AS MOOT.

September 11 Order of Appeal filed by Francis X. Borgerding, Esquire, on behalf of Petitioners.

October 28, 1993 Hearing before the Board of Appeals.

February 10, 1994 Opinion and Order of the Board in which the Petition for Special Hearing and Petition for Zoning Variance GRANTED.

February 17 Amended Order of the Board to correct clerical error in which portion of language was inadvertently omitted; Petition for SPH and Petition for Variance GRANTED.

March 9 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Kenneth H. Masters, Esquire on behalf of Frederick G. Timmel, Protestant.

March 10 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.

March 11 Certificate of Notice sent to interested parties.

May 4

Transcript of testimony filed.

- Petitioner's Exhibits No. 1 -Plat of 216 Newburg & 415 Forest Lane.
2 -A thru E - Pictures of subject property.
3 -Contract from Superior Builders for 415 Forest Lane 7/13/89.
4 -Office of Assessments Inquire 12/19/88.
5 -Plat - Portion Balto. Co. Tax Map.
6 -Tax record for Forest Lane lot 7/28/88.
7 -List of properties with 3 to 4 blocks of subject property that are undersized lots - from the Lusk report.
8 -Letter to Robert Haines, Zoning Commissioner 10/17/89.
9 -Letter from James Dyer, Zoning Supervisor 1/10/90 to James Haker.
10 -Zoning Regulations 1/22/45.
11 -Zoning Regulations 1955.
12 -Deed from Mr. Lovell to Hagers 6/18/70.
13 -Description of subject property to Paul Lee Engineering 2/20/92.
14 -Lot layout of Lots between Newburg Avenue, Forest Lane, Forest Spring Drive, Locust Drive.

- Protestant's Exhibits Nos. 1 -Chain of title & 7 Deeds, Liber 1059 Deed from Mengers to Lovell 1939; Deed from Lovell to Johnson 1950 conveying 215 Newburg Avenue.
2 -Petition signed by neighborhood residents.
3 -Series of letters (10) beginning with letter from Norman Schmuff, President, South Rolling Road Community Assoc. 8/15/93.
4 -Appraisal by Burns Real Estate 6/10/93.

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number: 93-472-SPHXA
(Item 477)
7933-7935 Belair Road
Taco Bell
NEC Belair Road and
Rossville Boulevard
14th Election District
6th Councilmanic
Legal Owner(s):
Emil B. Pielke
Applicant:
Taco Bell
HEARING: TUESDAY,
AUGUST 3, 1993 at 10:00
a.m. in Rm. 118, Old
Courthouse.

Special Hearing: to approve a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Special Exception: for a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Circuit Court, this 2nd day of July 1993, the sale made and reported by Laurence B. Flader, Substitute Trustee appointed for the sale of the property described in and confirmed thirty (30) days from the date of this Notice, unless cause be shown to the contrary, be given to the provided a copy of this Notice be inserted in some Newspaper published in this County, once in each of three (3) successive weeks. The report states the amount of the sale to be \$171,000.00. SUZANNE MENSH, Clerk

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

7/15, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/15, 1993

THE JEFFERSONIAN,

A. H. Hemickson
LEGAL AD. - TOWSON

Publisher

May 4, 1994

Record of Proceedings filed in the Circuit
Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered
and upon which said Board acted are hereby forwarded to the Court,
together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: People's Counsel for Baltimore County
Kenneth H. Masters, Esquire
Frederick G. Timmel
Francis X. Borgerding, Esquire
James L. Haker



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 11, 1994

Francis X. Borgerding, Jr., Esquire
DINENNA AND BRESCHI
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

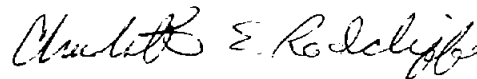
RE: Civil Action No. 94-CV-02068
James L. Haker, et ux

Dear Mr. Borgerding:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on March 9, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,


Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Mr. James L. Haker
Mr. Paul Lee
Ms. Karen A. Humes
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon /ZADM





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 11, 1994

Kenneth H. Masters
MCFARLAND & MASTERS
1002 Frederick Road
Catonsville, MD 21228

RE: Civil Action No. 94-CV-02068
James L. Haker, et ux

Dear Mr. Masters:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Frederick G. Timmel



IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF FREDERICK G. TIMMEL
410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

CIVIL
ACTION
No. 94-CV-02068
/75/152

IN THE CASE OF: IN THE MATTER OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH SIDE
OF FOREST LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 92-97-SPHA

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett, Robert O. Schuetz, and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Kenneth H. Masters, Esquire, MCFARLAND & MASTERS, 1002 Frederick Road, Catonsville, Maryland 21228, Counsel for Petitioner; Frederick G. Timmel, Petitioner; Francis X. Borgerding, Jr., Esquire, DINENNA AND BRESCHI, 409 Washington Avenue, Suite 600, Towson, MD 21204, Counsel for Mr. Haker; Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine, MD 21797; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

RECEIVED AND FILED

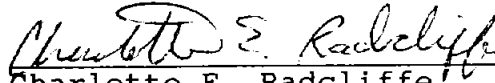
94 MAR 11 PM 3:23

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe
Charlotte E. Radcliffe

Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Kenneth H. Masters, Esquire, MCFARLAND & MASTERS, 1002 Frederick Road, Catonsville, Maryland 21228, Counsel for Petitioner; Frederick G. Timmel, Petitioner; Francis X. Borgerding, Jr., Esquire, DINENNA AND BRESCHI, 409 Washington Avenue, Suite 600, Towson, MD 21204, Counsel for Mr. Haker; Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine, MD 21797; this 11th day of March, 1994.



Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744-3423

February 28, 1994

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 92-97-SPHA
James L. Haker, et ux.
Decision dated February 10, 1994 as amended
on February 17, 1994

Dear Ms. Weidenhammer:

Enclosed please find a copy of the Petition of Frederick G. Timmel for Judicial Review of the above decision of the County Board of Appeals of Baltimore County.

Please advise me, or in my absence, Brian McFarland, Esquire, of my office, of what arrangements are necessary to have the proceedings before the County Board of Appeals of Baltimore County transcribed. I obviously want transcription.

Thank you for your assistance.

Very truly yours,


KENNETH H. MASTERS

KHM:fj
enc.

cc: Mr. Frederick G. Timmel

*3/07/94 -
Spoke w/ B. McFarland -
Hearing date 10/28/94
CP = Court Reporter
will l.m. for her to
call Masters or McFarland.
H.G.W.*

11:11 AM 2-28-94

CLERK OF COURT
BALTIMORE COUNTY

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744-3423

February 28, 1994

Clerk
Circuit Court for Baltimore County
County Courts Building
P.O. Box 6754
Towson, Maryland 21285-6754

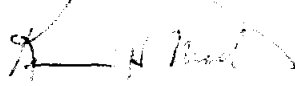
Attn: Pat Almony

Re: Petition of Frederick G. Timmel for Judicial Review

Dear Madam Clerk:

Enclosed herewith please find an original Petition for Judicial Review along with one copy, pursuant to Maryland Rule 7-202(d), for the County Board of Appeals of Baltimore County.

Very truly yours,


KENNETH H. MASTERS

KHM:pb

enc.

cc: Frederick G. Timmel
Francis X. Borgerding, Jr., Esquire
County Board of Appeals of Baltimore County

PETITION OF FREDERICK G. TIMMEL
of 410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE
DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF
IN THE MATTER OF THE
APPLICATION OF JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH
SIDE OF FOREST LANE, 130 FEET WEST OF
THE CENTERLINE OF NEWBURG AVENUE
(415 Forest Lane)
1st ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

Case No.: 92-97-SPHA

RECEIVED
COUNTY BOARD OF APPEALS

* IN THE
* 94 MAR 10 PM 1:51

*
* CIRCUIT COURT

*
* FOR

*
* BALTIMORE

*
* COUNTY

*
* Civil Action

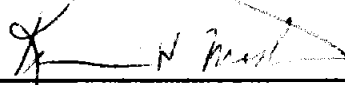
*
* No.: 94CN0068/75/152

* * * * *

PETITION FOR JUDICIAL REVIEW

Now comes the Petitioner, Frederick G. Timmel, a witness and Protestant in the proceeding before the County Board of Appeals of Baltimore County from which this review is being sought and as an aggrieved property owner residing across Forest Lane from the subject property, by his Attorney, Kenneth H. Masters, and Petitions this Honorable Court pursuant to Maryland Rule 7-202 for Judicial Review of the decision of the County Board of Appeals for Baltimore County dated February 10, 1994, as amended on February 17, 1994.

RECEIVED AND FILED
94 MAR -9 AM 10:11
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY


Kenneth H. Masters
Attorney for the Petitioner
1002 Frederick Road
Catonsville, Maryland 21228
(410) 788-2300

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 15, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
N/S of Forest Lane, 130' W of the c/l of Newburg Avenue
(415 Forest Lane)
1st Election District, 1st Councilmanic District
JAMES L. HAKER, ET UX - Petitioner
Case No. 92-97-SPHA

RECEIVED
COUNTY BOARD OF APPEALS
92 SEP 15 PM 2:37

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 11, 1992 by Francis X. Borgerding, Jr.. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Arnold Jablon".

Arnold Jablon - Director
Zoning Administration and
Development Management

AJ:cer

Enclosures

cc: Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine MD 21797

Francis X. Borgerding, Jr., Esquire - DiNenna and Breschi
409 Washington Avenue, Suite 600 - Towson, Maryland 21204

Paul Lee - 304 W. Pennsylvania Avenue, Towson, Maryland 21204

Karen A. Humes - 216 Newburg Avenue Baltimore, MD 21228

Kenneth Masters, Esquire - 1002 Frederick Road Baltimore, MD 21228

People's Counsel - 400 Washington Avenue, Towson, MD 21204



10/29/92 - Following parties notified of hearing set for January 14, 1993 at 10:00 a.m.:

Francis X. Borgerding, Jr., Esquire
Mr. and Mrs. James L. Haker
Kenneth H. Masters, Esquire
Ms. Karen A. Humes
Mr. Paul Lee
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

11/09/92 -Ltr from Kenneth Masters, Counsel for Mr. & Mrs. Humes, requesting POSTPONEMENT of above matter until after April 22, 1993, citing Legislative privilege /Mr. Masters is member of General Assembly.

11/12/92 - Above parties notified of POSTPONEMENT AND REASSIGNMENT to April 27, 1993 at 10:00 a.m. at the request of Counsel for Protestants citing legislative privilege.

3/24/93 -Notice of POSTPONEMENT & Reassignment sent to above parties; postponed to Wednesday, June 9, 1993 at 10:00 a.m.

4/29/93 -Ltr dtd 4/28/93 from Kenneth Masters, Esquire, requesting postponement from June 9 hearing date; will begin a jury trial that date in Circuit Court/ Baltimore City.

5/04/93 -Postponement granted; notices sent to all parties; matter reset to Wednesday, August 18, 1993 at 10:00 a.m.

8/04/93 -Ltr from F. Borgerding, Jr., Esquire requesting PP; client to be out of town on assigned hearing date.

8/05/93 -Notice of PP and Reassignment sent to above parties; postponement GRANTED; case to be heard on Wednesday, September 15, 1993 at 10:00 a.m.

8/12/93 -T/C from K. Masters, Esq. --scheduled to appear in Baltimore City Court on morning of 9/15/93; however, could be available for afternoon hearing before the Board. Conference call w/Frank Borgerding --agreed to reassignment of time from 10:00 a.m. to 1:00 p.m. on 9/15/93.

8/13/93 -Notice of Reassignment sent to all parties; matter reassigned to 1:00 p.m. on September 15, 1993; date of hearing to remain unchanged. Received letter of confirmation from K. Masters, Esq. this date.

9/02/93 -Ltr from Frank Borgerding -Clients unavailable on assigned date of 9/15/93; requests postponement.

9/03/93 - Ltr from Kenneth Masters --objec ting to postponement request; but asking that should it be granted, Counsel be consulted to arrive at firm date.

93-472-SPTXA



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Receipt

Account: R-001-6150

Number 477

Date 6/29/93

By JLL

(3) PETITIONS
TOTAL

VARIANCE	- 020	} = CODE 070 at \$650.00
SPECIAL HEARING	040	
SPECIAL EXCEPTION	050	
3 SIGNS	080	
		\$ 105.00
TOTAL:		\$ 755.00

OWNER PICKLE
7933-35 BELAIR RD.

02A02H0292M1CHRC
RA 0002332PH06-29-93

\$755.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Page 2 --James L. Haker, et ux

9/08/93 -Postponement to be GRANTED as requested by Counsel for Petitioner/Appellant; letter from Chairman Hackett to accompany Notice of PP and Reassignment indicating that any further conflict with the new assignment date are to be resolved prior to date of hearing; case rescheduled to Thursday, October 28, 1993 at 10:00 a.m.

JAMES L. HAKER, ET UX

92-97-SPH

N/S of Forest Lane, 130' West of c/l
of Newburg Avenue (415 Forest Lane)

1st Election District

RE: Special Hearing and Variance on property

No. CR-93-305-SPH

August 22, 1991	Petition for Special Hearing filed to determine that Sec. 304.3 does not apply for this undersized lot, as a result of circumstance, filed by James L. Haker.
March 2, 1992	Petition for Variance to permit a lot area of 5,796 sq. ft. in lieu of the required 6,000 sq. ft.; a rear yard of 20' in lieu of the required 30' and a front yard setback of 36.5 +/-, filed by Francis X. Borgerding, Jr., Esquire on behalf of James L. Haker.
July 8	Hearing held on Petition by DZC.
August 13, 1992	Order of the DZC, in which Petition for Special Hearing is DENIED; and Petition for Variance is DISMISSED AS MOOT.
September 11	Order of Appeal filed by Francis X. Borgerding, Esquire, on behalf of Petitioners.
October 28, 1993	Hearing before the Board of Appeals.
February 10, 1994	Opinion and Order of the Board in which the Petition for Special Hearing and Petition for Zoning Variance GRANTED.
February 17	Amended Order of the Board to correct clerical error in which portion of language was inadvertently omitted; Petition for SPH and Petition for Variance GRANTED.
March 9	Petition for Judicial Review filed in the CCT by Kenneth H. Masters, Esquire on behalf of Frederick G. Timmel, Protestant.
March 10	Copy of Petition for Judicial Review received by the Board of Appeals from the CCT.
March 11	Certificate of Notice sent to interested parties.
May 4	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
October 27	Order of the Cct wherein the decision of C.B. of A. was AFFIRMED (Hon. John O. Hennegan)

PETITION OF: Frederick G. Timm

CIVIL ACTION # 75/152 /94-CV-02068

IN THE MATTER OF JAMES L. HAKER, ET UX

RECEIVED FROM THE COUNTY BOARD OF
APPEALS EXHIBITS, BOARD'S RECORD
EXTRACT & TRANSCRIPT FILED IN THE
ABOVE-ENTITLED CASE, AND ZONING
COMMISSIONER'S FILE AND EXHIBITS

Mary Rose
Clerk's Office

Date: 5/4/94

94 AUG -5 PM 3:49

Sandra Sanidas — 887-2660
Civil Assignment Commissioner

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE

COUNTY COURTS BUILDING

401 Bosley Avenue

P.O. Box 6754

Towson, Maryland, 21285-6754

Joyce Grimm — 887-3497

Director of Central Assignment

Kathy Rushton — 887-2660
Jury Assignments — Civil

Jan Dockman — 887-2661
Non-Jury Assignments — Civil

THOMAS H. HASTINGS, ESQ.

June 16, 1994

THOMAS H. HASTINGS, JR., ESQ.

Court's Board of Appeals of Baltimore, Co. P.R.
Office of Law
400 Washington Ave
Towson, Md 21204

RE: **NOT JURY 94 CV 2068 IN THE MATTER OF THE APPLICATION JAMES L. HARRIS**
DEFERMENT OF SETTLEMENT DATE

CONFIDENTIAL

All counsel and their clients MUST attend this Settlement Conference in person. All Insurance Representatives or, in domestic cases, a corroborating witness MUST attend this Settlement Conference in person. Failure of attendance in person of all parties listed above can result in sanctions being imposed, unless prior approval of the Court is obtained. THERE WILL BE NO EXCEPTIONS.

HEARING DATE: **Appeal 1 day Thursday, August 18, 1994 @ 9:30 a.m.**

WITH THE EXCEPTION OF DOMESTIC CASES, COURT COSTS MUST BE PAID ON THE DATE OF SETTLEMENT CONFERENCE OR TRIAL, UPON SETTLEMENT OF THE CASE.

POSTPONEMENT POLICIES:

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other to conform calendars for the above date(s).
Claim of not receiving notice will not constitute reason for postponement.

A request for postponement MUST BE MADE IN WRITING to the Assignment Office with a copy to all counsel involved.

COUNSEL MUST NOTIFY THE CIVIL ASSIGNMENT OFFICE WITHIN 15 DAYS OF RECEIPT OF THIS NOTICE AS TO ANY CONFLICTS THAT MAY EXIST WITH THE ABOVE REFERENCED DATES. OTHERWISE, IT WILL BE ASSUMED THAT THESE DATES ARE VALID AND NO POSTPONEMENT WILL BE GRANTED.

INDIVIDUALS WITH DISABILITIES, WHO MAY NEED ACCOMMODATIONS PRIOR TO COURT DATES, SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE (887-2687) OR USE THE COURTS TDD LINE (887-3018) OR THE VOICE/TDD MD. RELAY SERVICE 1-800-735-2258.

94 JUN 20 PM 2:34

RECEIVED
COURT BOARD OF APPEALS

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JULY 9, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-472-SPHXA (Item 477)

7933-7935 Belair Road - Taco Bell

NEC Belair Road and Rossville Boulevard

14th Election District - 6th Councilmanic

Legal Owner(s): Emil B. Pielke

Applicant: Taco Bell

HEARING: TUESDAY, AUGUST 3, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Special Exception for a restaurant, fast food, drive-thru with outdoor seating.

Variance to permit a setback of 32 feet between buildings in lieu of the required 60 feet; to permit an open projection (canopy) with a setback of 4 feet in lieu of the required 22.5 feet measured from the proposed building to the lease line; to permit the drive-thru lane to cross the principal pedestrian access to the facility; to permit 45 parking spaces in lieu of the required 64 spaces; to permit 316 sq. ft. of business signs in lieu of the maximum permitted 100 sq. ft.; to permit 16 signs (1 free-standing, 7 directional signs, 2 speaker posts, and 3 menu boards) in lieu of the maximum permitted 3 signs on any premises; to permit internally illuminated directional signage with advertising aspects (logo) in lieu of the permitted non-illuminated directional signage with no advertising affect.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Emil B. Pielke/7937 Belair Road/Baltimore MD
Anthony Byrd/Taco Bell/620 Herndon Parkway#200/Herndon VA 20070
William Monk, Inc./222 Bosley Avenue #B-7/Towson MD 21204

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 28, 1993

Mr. William Monk
222 Bosley Avenue STE B-7
Towson, MD 21204

93

RE: Case No. ~~84~~-472-SPHXA, Item No. 477
Petitioner: Emil B. Pielke, et al
Petition for Special Exception, Special
Exception and Variance

Dear Mr. Monk:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 29, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Zoning Plans Advisory Committee Comments

Date: July 28, 1993

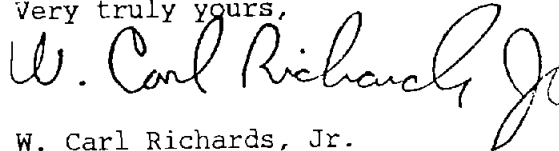
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Helene Kehring in the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,



W. Carl Richards, Jr.
Zoning Coordinator

WCR:hek
Enclosures

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: July 19, 1993
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for July 19, 1993
Item No. 477

The Development Plan Review Division has reviewed the subject zoning item. The Concept Plan and Development Plan comments are still applicable to this site.

RWB:s

✓

Previously, the property was used as a retail center (Valley View Farms store). However, it is now vacant. Numerous commercial/retail uses surround the site. These include a Toyota dealership immediately to the north on Belair Road, a large shopping center to the south, and a Levitz Furniture store to the east. As noted above, this is a highly commercialized strip.

Taco Bell has entered into a lease with the property owner to construct a Taco Bell fast food restaurant on site. Also proposed is a Hot-N-Now drive-thru restaurant. The proposed improvements, which include the restaurant buildings as well as a parking and driveway scheme are clearly shown on the site plan.

The Taco Bell restaurant will be similar to other Taco Bell outlets which exist throughout Baltimore County. The format and style of these restaurants is well known to residents of Baltimore County and this Zoning Commissioner. The Taco Bell restaurant will be 2,348 sq. ft. in area. It will serve a southwestern food menu and will contain indoor seating. Further, a drive-thru is proposed for carryout pick-up.

The Hot-N-Now facility is somewhat new to Baltimore County. Although other sites have been approved for Hot-N-Now restaurants, no such restaurants are currently operating in the County. The Hot-N-Now chain is owned by Taco Bell and features a distinct fast food menu. Specifically, hamburgers, french fries and similar fast foods are sold. Additionally, unlike other fast food restaurants, such as McDonalds, Burger King, etc., there is no seating area. The Hot-N-Now restaurant building is only 828 sq. ft. in area and caters exclusively to carry-out business. A double driveway is proposed with order/pick-up windows on both sides of the building.

Although the site plan speaks for itself, certain features of the proposed layout are of note. It is first to be observed that the property lies

ORDER RECEIVED FOR FILING

Date

8/30/93

By

M. J. Jank

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

DATE: July 23, 1993

FROM: Ervin McDaniel, Chief,
Development Review Section
Office of Planning and Zoning

SUBJECT: 7933 Belair Road
(TACO BELL/HOT 'N' NOW - ITEM No. 477)

SUMMARY AND RECOMMENDATIONS:

The Petitioner is requesting several variances for building setbacks, signage, a special exception for a restaurant fast food drive-thru with outdoor seating, a special hearing for a restaurant fast food drive-thru with outdoor seating as a use permitted by right in all business zones and the stacking requirement in Section 409.10(B) apply only to individual uses in Section 409.10(A). This project was also granted a limited exemption from the Development Regulations on May 24, 1993 (Section 26-171(B)(9)).

On May 14, 1993, a Concept Plan Conference was held on this Plan with a follow-up meeting and letter dated May 25, 1993 sent to Mr. Ping, Vice-President of Windward Associates, Inc., the engineer for this project. As a result of those meetings and letter, there are only two outstanding issues that this Plan does not address, 1) a bus shelter should be provided at this location and 2) a uniform architectural treatment tying the the two buildings together should be provided.

Staff recommends that the Developer of this site should provide a bus shelter at this location to encourage the use of transit by both employees and patrons.

Staff also recommends that there be a uniform architectural treatment connecting the two fast food restaurants. Since these two buildings are sharing the same site and within proximity, staff believes that the two structures should be connected in the manner shown on the attached sketch. By connecting the two structures architecturally, the visual appearance of the facilities would be greatly enhanced while maintaining each facility's identity and function.

Division Chief: Ervin McDaniel

EMCD:bjs

Attachment

CC: File

WILLIAM MOOK, INC.

PLANNING • LANDSCAPE DESIGN
ENVIRONMENTAL RESOURCE MANAGEMENT

COURTHOUSE COMMONS, SUITE B-7
222 BOSLEY AVENUE, TOWSON, MD 21204

LETTER OF TRANSMITTAL

DATE 6/23/93	OUR JOB NO. 93-30
FILE NO.	YOUR JOB NO.
ATTENTION	
RE: 9733 9735 BELAIR ROAD	

TO BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING

GENTLEMEN:

WE ARE SENDING YOU ☐ Attached ☐ Under separate cover via _____ the following items:

- ☐ Shop drawings ☒ Prints ☒ Plans ☐ Samples ☐ Specifications
☐ Copy of letter ☐ Change order ☐

DRAWING NO.	FILE NO.	DESCRIPTION	ACTION
	(3)	PETITIONS FOR VARIANCE	
	(3)	PETITIONS FOR SPECIAL EXCEPTION	
	(3)	PETITIONS FOR SPECIAL HEARING	
	(3)	ZONING RESOLUTIONS	
	(1)	APPLICATION FEE 755.00	
		CHECK #	
	(12)	PRINTS	
	(1)	ZONING MAP (200 SCALE)	

THESE ARE TRANSMITTED as checked below:

- ☒ For approval ☐ As requested ☐ Submit _____ copies for distribution
☐ For your use ☐ Resubmit _____ copies for approval ☐ Return _____ corrected prints
☐ For review and comment ☐ _____
☐ FOR BIDS DUE _____ 19____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS:

COPY TO: ANTHONY BYRD

SIGNED: W. Mook

If enclosures are not as noted, kindly notify us at once.

RE: PETITION FOR SPECIAL HEARING, : BEFORE THE ZONING COMMISSIONER
SPECIAL EXCEPTION AND VARIANCE
NEC Belair Rd. & Rossville : OF BALTIMORE COUNTY
Blvd (7933-7935 Belair Rd.
Taco Bell), 14th Election Dist. : Case No. 93-472-SPHXA
6th Councilmanic Dist.
:
EMIL B. PIELKE, Owner
TACO BELL/ANTHONY BYRD, :
Applicant :

: : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

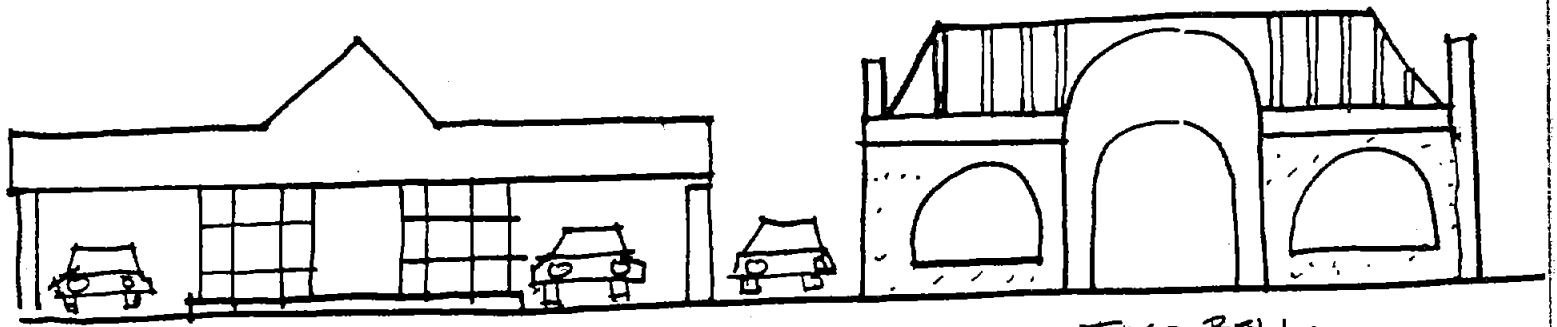
Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 22nd day of July, 1993,
a copy of the foregoing Entry of Appearance was mailed to Emil B. Pielke,
7937 Belair Rd., Baltimore, MD 21236; Taco Bell/Anthony Byrd, 620 Herndon
Parkway, Suite 200, Herndon, VA 22070; and William Monk, Inc., 222 Bosley
Ave., B-7, Towson, MD 21204.

Peter Max Zimmerman

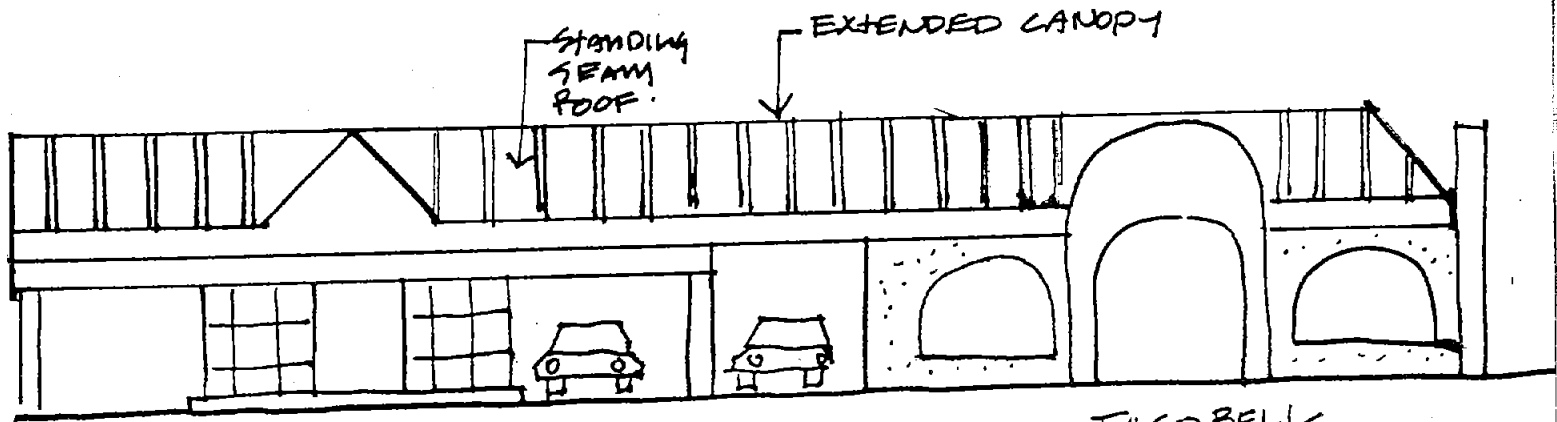
Peter Max Zimmerman



HOT AND NOW

TACO BELL

ELEVATION AS PROPOSED
NOT TO SCALE



HOT AND NOW

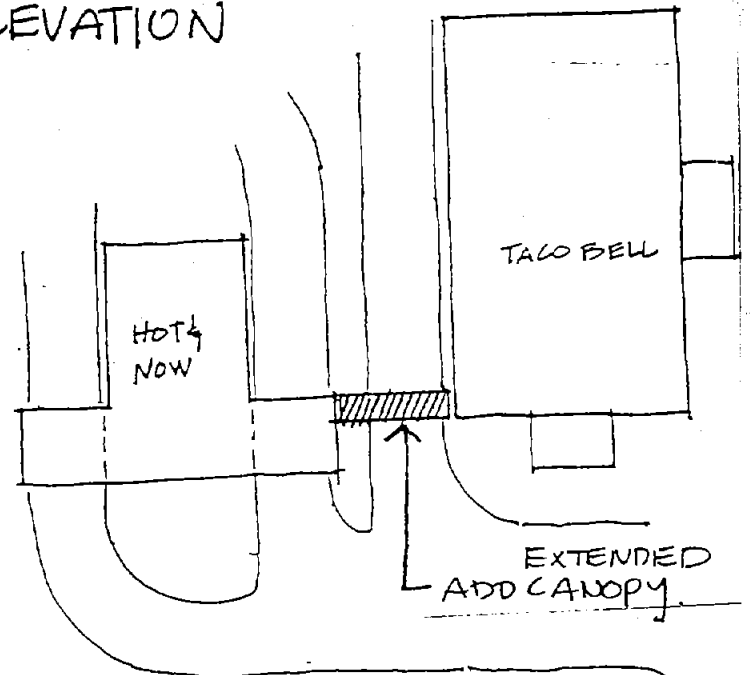
TACO BELL

RECOMMENDED ELEVATION
NOT TO SCALE

TACO BELL / HOT & NOW

Site # 05-1678 7933 BELAIR RD.
BALTIMORE COUNTY
MARYLAND

Baltimore County OFFICE OF PLANNING
CONCEPT PLAN REVIEW COMMENTS.



NOT TO SCALE.

BELAIR ROAD

D.R. 5.5

PUTTY

HILL

AVE.

N 29,000

477

BR-CS-2

BR

BL

RO

D.R. 5.5

BM-CNS

N 561,000

GRAPEHILL RD.

MARTIN AVE.

BL

BR-CS-2

BM

SITE

BR

BR

MLR-IM

MLR-IM

BM-CNS

BR-CS-2

BR

BR

D.R. 5.5

SHEETS NE 7E NE 8E

BALTIMORE COUNTY REPRESENTATIVES
SIGN-IN SHEET

ADDRESS

1894





300 West Lexington Street
Baltimore, Maryland 21201-3415

MASS TRANSIT ADMINISTRATION

May 13, 1993

Mr. Arnold Jablon
Director of Zoning Administration
and Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

*County
Ex No 1*

RE: Taco Bell (7933 Belair Road)

Dear Mr. Jablon:

As part of the Mass Transit Administration's "Access by Design" program, the MTA has reviewed the development plans for the referenced project. The MTA operates the No. 43 along Belair Road adjacent to the proposed development.

The MTA recommends that the developer create a bus stop with a shelter on Belair Road between Rossville and Klein according to MTA specifications. Mr. Leonard Barber of the MTA Operations Planning Department will be the contact person to coordinate implementation. He can be reached at 333-3373.

Please feel free to contact me at 333-3381 if you have any questions.

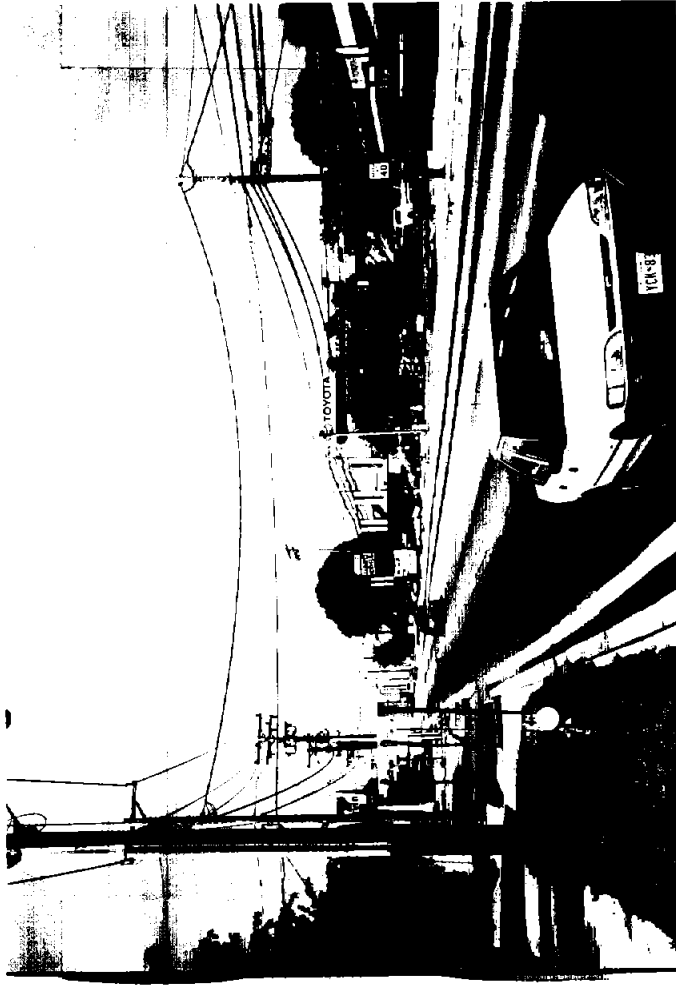
Sincerely,

Stuart M. Sirota
Project Manager

cc: Mr. Leonard Barber
Mr. Jeff Mayhew

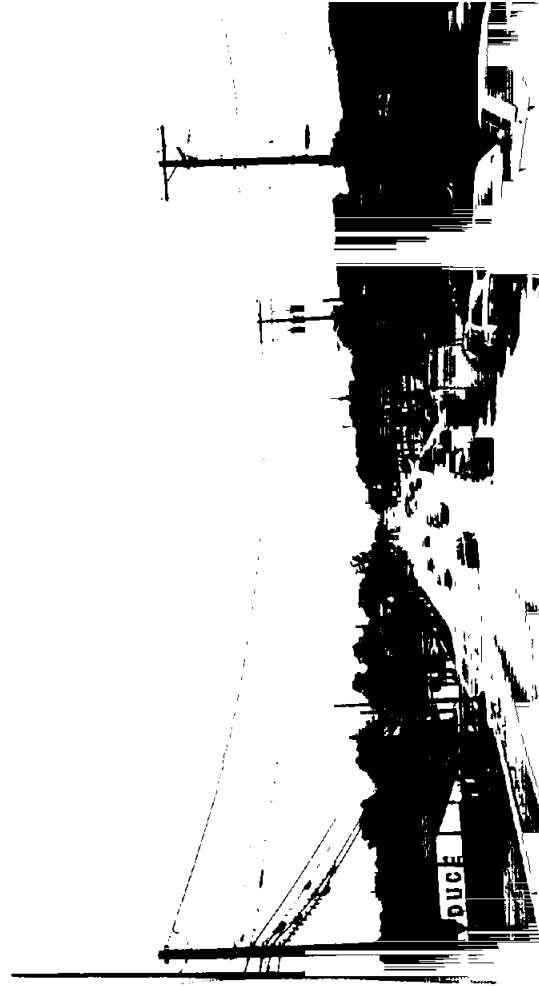
BELAIR ROAD

VIEW LOOKING NORTH



Feb 27

VIEW LOOKING SOUTH



WILLIAM MONK, INC.

Courthouse Commons
222 Bosley Avenue, Suite B-7
TOWSON, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ADJACENT LAND USE

**OFFICE
CONVERTED DWELLING
NORTH SIDE**



*Plot
24*

EAST SIDE



awaits only the expiration of the 45 day waiting period before same becomes law.

In view of these developments, it is clear that the County Council intends on classifying a Hot-N-Now type facility as permissible by right in a B.M. zone. Thus, based on the enactment of this legislation, I will revise my earlier holding in the previous case and grant the Petition for Special Hearing submitted herein. That is, the Hot-N-Now restaurant is permissible as of right at this subject location, zoned B.M.-C.S.-2.

Having resolved the Petition for Special Hearing, in the above fashion, a portion of the Petition for Special Exception becomes moot. Thus, I need not decide that issue, although note in passing that the Hot-N-Now restaurant would meet the standards set forth in Section 502.1 of the B.C.Z.R. based on the evidence and testimony presented. Clearly, the proposed use is not detrimental to the surrounding locale and is appropriate at this location.

Turning to the Petition for Variance, a number of variances are specifically requested.

First, a variance is requested from Section 238.2 of the B.C.Z.R. to permit a setback of 32 ft. between the Taco Bell restaurant and the Hot-N-Now facility. Mr. Monk testified that this variance was necessary due to certain site constraints and to promote a better traffic flow and parking scheme. Clearly, as shown on the site plan and photos presented, the site is of limited area. Moreover, the placement of the existing buildings appears entirely appropriate. They are both located so as to be on the portion of the lot closest to Belair Road, near the roadway. Further, the proposed parking arrangement and traffic flow is appropriate. To require that the buildings be 60 ft. apart would disrupt the scheme. Further, a

ORDER RECEIVED FOR FILING

Date

8/30/93

By

Dr. G. Monk

WILLIAM MONK, INC.
Courthouse Commons

222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ADJACENT LAND USE

NORTH SIDE

Baker



**WEST SIDE
BELAIR ROAD**



WILLIAM MONK, INC.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

WILLIAM MONK, INC.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

ROSSVILLE BOULEVARD

VIEW LOOKING WEST



lot 2A

VIEW LOOKING EAST



WILLIAM MONK, INC.
Courthouse Commons
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204-4300

WILLIAM MONK, INC.

LAND USE PLANNING • ENVIRONMENTAL PLANNING • ZONING

BELAIR ROAD

VIEW LOOKING NORTH



Ref 23

VIEW LOOKING SOUTH



Baltimore County Government
Office of Zoning Administration
and Development Management



Red No 3

111 West Chesapeake Avenue
Towson, MD 21204

May 27, 1993

(410) 887-3353

Mr. William P. Monk
William Monk, Inc.
Courthouse Commons - Suite B-7
222 Bosley Avenue
Towson, MD 21204

Re: Limited Exemption Approval - Plan required
Taco Bell/Hot-N-Now Restaurants
7933 Belair Rd - 14C6 - DRC No. 5243E

Dear Mr. Monk:

On May 24, 1993, the Development Review Committee reviewed the plan submitted on the above referenced project and determined it to be a Limited Exemption under Section 26-171(b) of the Baltimore County Development Regulations. This exempts your development from the Community Input Meeting (CIM) and the Hearing Officer's Hearing (HOH). The \$40.00 fee receipt is enclosed.

The following requirements are necessary to further process your development plan:

1. Submit two (2) check prints of the plan, prepared in accordance with Sec. 26-203 of the Baltimore County Development Regulations to:
Zoning Administration and Development Management, County Office Building,
Room 123, 111 West Chesapeake Ave., Towson, MD
2. Submit a copy of this Limited Exemption Approval letter together with the check prints.

Your plan will then be reviewed. If any changes are necessary you will be instructed to revise the check print, at which time, you may continue in accordance with the following:

3. After the check print plan has been corrected and accepted, twenty two (22) copies of the revised plan must be submitted to the Bureau of Public Services (see address above).
4. The development plan review fee is \$1,344.00 (Fee schedule effective 4/1/92, Baltimore County Code, Section 15.9(c)). Payment can be either a certified or cashier's check made payable to Baltimore County, MD, and must accompany submittal of the 22 copies of the plan.



William P. Monk

Re: Taco Bwell, et al - Ltd Exemption DRC #5243E

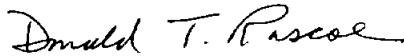
5/27/93

p. 2

Also enclosed are comments from the State Highway Administration (SHA) for your attention.

If you have any questions, please do not hesitate to call me at 410-887-3353.

Respectfully submitted,



Donald T. Rascoe, Manager
Development Management

DTR:ggl

Enc.

c: Taco Bell Corp./NE Zone
620 Herndon Parkway - Suite 200
Herndon, VA 22070
TACOBELL/TXTGGL

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

July 22, 1993

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson *JLP*
Development Coordinator, DEPRM

SUBJECT: Zoning Item #477
Taco Bell, 7933 Belair Road
Zoning Advisory Committee Meeting of July 12, 1993

Ret No 4

~~The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:~~

1. Development of the property must comply with the Forest Conservation Regulations.
2. Existing underground storage tanks must be shown on the Development Plan with a note stating that tanks shall be removed under permit prior to razing.

JLP:jbm

TACOBELL/TXTSBP

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

(410) 887-3733

July 27, 1993

Mr. Benjamin Brockway
Biota
3746 Peach Orchard Road
Street, Maryland 21154

Re: Forest Conservation Worksheet
Taco Bell Site 05-1678
Rossville Blvd. at Belair Road

Dear Mr. Brockway:

The Environmental Impact Review Section has reviewed your Forest Conservation Worksheets and the following comments are made:

1. The Gross Area according to the plan is 67,306 square feet or 1.55 acres. However, calculations on your Forest Conservation Worksheet are based on 1.23 acres which you refer to as a "disturbed area". While calculations in this case may be based upon the limit of disturbance, you must show this limit on the plan so that we can verify your information.
2. A note should be placed on the grading plan as follows:
'Compliance with the Forest Conservation Regulations will be met by payment of a fee in lieu of \$0.40 per square foot.'
3. Grading Permit(s) (or Building Permit(s) if applicable) will be held until the fee in lieu has been paid.

Review of your calculations will continue once you provide us with information noted in number 1 above. If you have any questions, please contact Mr. Steve Armiger at 887-3226.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia M. Farr".

Patricia M. Farr
Program Supervisor
Environmental Impact Review

PMF:SA:tmm



~~ADP/DP~~
JUN 14 1993

Baltimore County Government
Department of Environmental Protection
and Resource Management



401 Bosley Avenue
Towson, MD 21204

June 10, 1993

(410) 887-3733

Mr. Tunnie Ping
Windward Associates, Inc.
15 South Parke Street
Suite 400
Aberdeen, Maryland 21001

Noted No
5

RE: TACO BELL, 7933 BELAIR ROAD
Waiver Request

Dear Mr. Ping:

This is in response to your letter of May 12, 1993, requesting a waiver of storm water management requirements for the above referenced project.

This office has reviewed the material submitted with your letter and has determined that a waiver of quantity management may be granted under the provisions of Section 14-155 (c) (2) of Article V of the "Baltimore County Code of Laws". Section 14-155 (c) (2) allows granting of a waiver if the parcel of land under consideration is less than two acres in size and is surrounded by existing developed areas which are served by an existing network of public storm drainage systems of adequate capacity to accommodate the runoff from the additional development.

Water quality management must be provided for the first half-inch of runoff from all new impervious areas, and all runoff must be conveyed to suitable outfalls. Grading and building permits will not be released until a water quality plan is approved. Our take-off indicates that there will be an increase of 0.18 acres of new impervious area. (The decrease in impervious area, as reflected on your computation sheets, is not supported by the data shown on the drawings.) Infiltration is the preferred quality management practices and should not be dismissed in favor of water quality inlets without appropriate subsurface investigation and (if necessary) project reconfiguration.

If there are any questions, please contact Ed Schmaus at 887-3768.

Very truly yours,

Thomas L. Vidmar

Thomas L. Vidmar, P.E.
Chief

Bureau of Engineering Services

TLV:pms

cc: Mr. Rick Dills, Soil Conservation District
Mr. Robert Berner, Storm Drain & Construction
Ms. Pat Farr, Environmental Impact Review



COUNTY COUNCIL OF BALTIMORE COUNTY MARYLAND
LEGISLATIVE SESSION 1993, LEGISLATIVE DAY NO. 14

BILL NO. 110-93

MR. C. A. DUTCH RUPPERSBERGER, COUNCILMAN

By Request of the County Executive

BY THE COUNTY COUNCIL, JULY 6, 1993

A BILL
ENTITLED

Ret No 6

AN ACT concerning

Restaurants

FOR the purpose of amending the Baltimore County Zoning Regulations in order to define various types of restaurants and other food or entertainment facilities; authorizing certain types of restaurants and other food or entertainment facilities to be located in certain zones of the County, either by right or by Special Exception; specifying the parking requirements for restaurants and other food or entertainment facilities; and generally relating to zoning requirements for restaurants and other food or entertainment facilities in Baltimore County.

BY adding

Section 101 - Definitions, the definitions of Catering Hall, Standard Restaurant, Fast Food Restaurant, Fast Food, Drive-Through Only Restaurant, Carry-Out Restaurant, Nightclub, and Tavern, alphabetically.
Baltimore County Zoning Regulations, as amended.

BY repealing and re-enacting, with amendments

denial of the variance would cause a legitimate practical difficulty upon the Petitioner and his property. Thus, this variance shall be granted in that same complies with the applicable standards of Section 307 of the B.C.Z.R.

The second variance requested (from Sections 301.1.A and 238.2) relates to the canopy on the Hot-N-Now building, which is located but 4 ft. from the lease line. It is to be noted that Mr. Pielke owns the property north of the subject site on Belair Road. The variance request relates to the property line of the site leased by the Taco Bell Corporation, as opposed to Mr. Pielke's entire holdings and the property (tract) boundary for same. Again, for the same reasons which were presented in support of the first variance, this variance should also be granted. To require a 22.5 ft. setback of the canopy from the least line would destroy the traffic pattern for the site and interrupt an, otherwise, workable traffic flow. The Petitioner, likewise, met its burden as it relates to Section 307 in this instance, and the variance shall be granted.

The third variance requested relates to the proposed drive-thru lane. The relief requested herein is also referenced within the Petition for Special Hearing. Specifically, the variance relief is sought from Section 409.10.B to permit the drive-thru lane to cross the principal pedestrian access to the facility. As is shown on the site plan, the drive-thru lane forks into 2 lanes to serve each of the proposed restaurants. This split occurs after the lane crosses the pedestrian access. Moreover, none of the stacking spaces intrude on the area comprised by the pedestrian access. Therefore, the Petitioner avers that Section 409.10.B is not applicable to this site plan, or, in the alternative, that variance relief from this section should be granted. After examination of Section 409.10.B., I believe

ORDER RECEIVED FOR FILING

Date

8/30/93

By

Ch. Gorch

1. RESTAURANT, FAST FOOD: AN ESTABLISHMENT WHOSE PRINCIPAL BUSINESS IS TO
2. SELL READY-TO-CONSUME FOOD AND BEVERAGES IN DISPOSABLE CONTAINERS AND WHICH IS
3. NOT A DRIVE-IN RESTAURANT. A FAST FOOD RESTAURANT HAS SOME OR ALL OF THE
4. FOLLOWING CHARACTERISTICS:

5. A) PREPACKAGED FROZEN, CHILLED OR SEALED FOOD AND MEALS ARE COOKED IN
6. ADVANCE FOR IMMEDIATE SALE.

7. B) FOOD AND BEVERAGES ARE ORDERED OVER THE COUNTER OR BY MOTORISTS FROM
8. WITHIN THEIR VEHICLES.

9. C) FOOD AND BEVERAGES ARE CONSUMED ON THE PREMISES OF THE RESTAURANT, OR
10. WITHIN A MOTOR VEHICLE ON OR OFF THE PREMISES.

11. RESTAURANT, FAST FOOD, DRIVE-THROUGH ONLY: A FAST FOOD RESTAURANT, AS
12. DEFINED IN SECTION 101, EXCEPT THAT NO CUSTOMER SEATING IS PROVIDED INSIDE THE
13. RESTAURANT. FOOD AND BEVERAGES ARE ORDERED BY MOTORISTS FROM A DRIVE-THROUGH
14. LANE OR FROM A WALK-UP WINDOW ON THE OUTSIDE OF THE BUILDING, OR WITHIN A
15. VESTIBULE. ORDERS ARE PRIMARILY CONSUMED OFF THE PREMISES, BUT RESTAURANTS MAY
16. PROVIDE SEATING AT TABLES OUTSIDE THE BUILDING ON THE PREMISES.

17. RESTAURANT, CARRY-OUT: AN ESTABLISHMENT WHOSE PRINCIPAL BUSINESS IS THE
18. SALE OF READY-TO-CONSUME FOOD AND BEVERAGES TO CUSTOMERS WHO ORDER THEIR FOOD AND
19. BEVERAGES OVER THE COUNTER, BY TELEPHONE OR FAX MACHINE AND WHOSE PRINCIPAL
20. CHARACTERISTIC IS THAT FOOD AND BEVERAGES ARE CONSUMED OFF THE PREMISES.

21. NIGHTCLUB: A TAVERN OR OTHER COMMERCIAL ESTABLISHMENT WHICH PROVIDES
22. LIVE OR RECORDED ENTERTAINMENT, WITH OR WITHOUT A DANCE FLOOR, AND WHICH IS
23. CATEGORIZED AS A NIGHTCLUB BY THE BUILDING CODE OF BALTIMORE COUNTY.

24. TAVERN: AN ESTABLISHMENT WHICH HAS A BALTIMORE COUNTY CLASS D LIQUOR
25. LICENSE. A TAVERN WHICH MEETS THE CRITERIA OF NIGHTCLUB, AS DEFINED IN THESE
26. REGULATIONS, SHALL BE CONSIDERED A NIGHTCLUB.

1. Section 1A06 R.C.C. (Commercial) Zones
2. 1A06.2 - Use Regulations
3. A. Uses permitted as of right.
4. 2. Commercial and service uses:
5. CARRY-OUT RESTAURANTS, STANDARD restaurants and
6. {bars} TAVERNS (except drive-in or drive-through
7. facilities);
8. Section 200.2 - Use Regulations in R.A.E. 1 Zones
9. A. Uses Permitted
10. 15. STANDARD restaurants, with no dancing or live
11. entertainment permitted
12. 15a. CARRY-OUT RESTAURANTS
13. Section 201 - R.A.E. 2 Zones
14. 201.2 - Use Regulations
15. A. Uses Permitted
16. 20. STANDARD restaurants, with dancing or entertainment
17. permitted
18. 20a. CARRY-OUT RESTAURANTS
19. B.L. Zone - Business, Local
20. Section 230 - Use Regulations
21. The following uses only are permitted (see Section
22. 230.12):

1. {Public Restaurant, but food may be served and
2. eaten on the premises only by persons seated at inside tables or counters; it may
3. not be served to persons remaining in cars.}

4. CARRY-OUT, FAST FOOD AND STANDARD RESTAURANT

5. M.L. Zone - Manufacturing, Light

6. Section 253 - Use Regulations

7. 253.1 - Uses permitted as of right.

8. C. The following auxiliary retail or service
9. uses or semi-industrial uses, provided that any such use is located in a planned
10. industrial park at least 25 acres in net area or in an I.M. district, in neither
11. case with any direct access to an arterial street other than a Class I Commercial
12. Motorway:

13. 19. CARRY-OUT, FAST FOOD, AND STANDARD
14. restaurants, except drive-in restaurants

15. 409.6 Required Number of Parking Spaces

16. A. General Requirements - The standards set forth below shall
17. apply in all zones unless otherwise noted. Where the required number of
18. off-street parking spaces is not set forth for a particular type of use, the
19. Zoning Commissioner shall determine the basis of the number of spaces to be
20. provided. When the number of spaces calculated in accordance with this
21. subsection results in a number containing a fraction, the required number of
22. spaces shall be the next highest whole number.

SHOULD NOT EXCLUDE
DRIVE-IN RESTAURANTS

LEGISLATED BUT
CAN PRO BEATER

- 7 -

SHOULD NOT HAVE TO DRIVE FROM HOME
TO GET LUNCH

1. space next to the transaction station. The following are the minimum number of
2. required stacking spaces by type use:
3. Automotive Service Station As required in Section 405
4. Bank 5 for the first station, plus 2 for each
5. additional station
6. Car Wash As required in Section 419
7. Restaurant, FAST FOOD 7 per station, 5 of which must be
8. behind the order board
9. RESTAURANT, FAST FOOD, SINGLE DRIVE-THROUGH LANE:
10. DRIVE-THROUGH ONLY 1) MINIMUM OF 10 STACKING SPACES IF
11. WALK-UP WINDOW IS PROVIDED;
12. 2) MINIMUM OF 12 STACKING SPACES IF
13. THERE IS NO WALK-UP WINDOW.
14. DOUBLE-DRIVE-THROUGH LANE:
15. 1) 16 SPACES, WITH NO LESS THAN 5
16. STACKING SPACES PER LANE, IF WALK-UP
17. WINDOW IS PROVIDED;
18. 2) 20 SPACES, WITH NO LESS THAN 5
19. SPACES PER LANE, IF THERE IS NO WALK-UP
20. WINDOW.
21. Other Uses As determined by the zoning commissioner

22. B. The drive-through lane shall be distinctly marked by special
23. striping or pavement markings, and shall not block entry to or exit from
24. off-street parking spaces otherwise required on the site. The drive-through lane
25. may not cross the principal pedestrian access to the facility, EXCEPT THAT IN THE
26. CASE OF A DRIVE-THROUGH ONLY RESTAURANT WITH TWO DRIVE-THROUGH LANES, THE
27. DRIVE-THROUGH LANES ARE PERMITTED TO CROSS THE PEDESTRIAN ACCESS IF A PAINTED
28. CROSS WALK IN ASSOCIATION WITH WARNING SIGNS FOR PEDESTRIANS AND MOTORISTS IS
29. PROVIDED. THE CROSSWALK MAY NOT BE LOCATED BETWEEN VEHICLE STACKING SPACES.

30. SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take
31. effect forty-five days after its enactment.

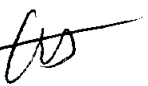
BALTIMORE COUNTY, MARYLAND

Board of Appeals of Baltimore County

Interoffice Correspondence

DATE: February 15, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: W. Carl Richards, Jr.

FROM: Theresa R. Shelton 
Board of Appeals

SUBJECT: **James L. Hacker, et ux**
Case No.: 92-97-SPHA
Circuit Court Case No.: 94 CV 2068

Judge Hennegan of the Circuit Court issued an Order on October 26, 1994
AFFIRMING the Board of Appeals. No further appeals have been taken in this matter. The Board
of Appeals is closing and returning the file that is attached herewith.

Attachment: SUBJECT FILE ATTACHED

App-92 # 7

FILE#: 92-097-SPHA
NAME: Haker, James L., et ux
STREET: Forest Lane, 415, N/s, 130' W of c/l Newburg Ave.
TYPE: SPH-undersized lot (304.3); VAR-setbacks, lot area
DISTRICT: 1;1
DATE APPEALED: 9/11/92
HRG. DATE: 10/28/93
ORDER DATE: 2/10/94
DECISION: G -SPH /lot size; G -variances -setbacks
CLOSED:
UP: X

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744 - 3423

May 31, 1994

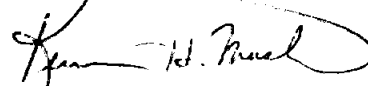
Clerk
Circuit Court for Baltimore County
County Courts Building
P.O. Box 6754
Towson, Maryland 21285-6754

Re: Petition of Frederick G. Timmel
Civil Action No. 75/152/94 CV 2068
Agency Case No.: 92-97 SPHA

Dear Madam Clerk:

Enclosed herewith please find Petitioner's Memorandum in the above matter.

Very truly yours,



KENNETH H. MASTERS

KHM:pb

enc.

cc: Francis X. Borgerding, Jr., Esquire
Kathleen C. Weidenhammer
Frederick G. Timmel

RECEIVED
COUNTY CLERK
94 JUN -1 AM 11:59

5 21-91
PETITION OF FREDERICK G. TIMMEL
of 410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE
DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF
IN THE MATTER OF THE
APPLICATION OF JAMES L. HAKER, ET UX.
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH
SIDE OF FOREST LANE, 130 FEET WEST OF
THE CENTERLINE OF NEWBURG AVENUE
(415 Forest Lane)
1st ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

Case No.: 92-97-SPHA

IN THE

CIRCUIT COURT

FOR

BALTIMORE

COUNTY

Civil Action

No.: 94-CV-02068/75/152

94 JUN -1 AM 11:59
COUNTY BOARD OF APPEALS

* * * * *

PETITIONER'S MEMORANDUM

Now comes the Petitioner, FREDERICK G. TIMMEL, by and through his Attorney, Kenneth H. Masters, pursuant to Maryland Rule 7-207(a), files this Memorandum in support of his Petition for Judicial Review of the Decision of the County Board of Appeals of Baltimore County.

QUESTIONS PRESENTED

1. Did the County Board of Appeals of Baltimore County err, as a matter of law, in its finding that the Petitioners, below, satisfied the requirements of Baltimore County Zoning Regulations (BCZR) Section 304 and/or Section 304.1?

2. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of BCZR Section 304 and/or Section 304.1 to the facts in this case, did the County Board of Appeals of Baltimore County err in failing to find that the Petitioners, below, are victims of a "self-inflicted injury"?

3. Even if, arguendo, the County Board of Appeals of Baltimore County is correct in its application of BCZR Section 304 and/or 304.1 to the facts in this case, did the County Board of Appeals of Baltimore County err in granting a front yard set back variance which will result in building of a structure that extends greater than fourteen (14) feet in front of all of the other houses oriented to Forest Lane on the subject block and, thereby, finding that such construction would "be consistent with the surrounding community"?

THE FACTS

In or about August of 1991, James L. Haker and Faye E. Haker, his wife (the Petitioners, below, and hereinafter called Hakers), as owners of the subject property known as 415 Forest Lane in Catonsville, Baltimore County, Maryland, filed a Petition for Variance to the Zoning Commissioner of Baltimore County seeking, initially, set back variances in both the front and rear yards. That Petition was later amended by a Petition filed prior to March 1992 to include an area variance pursuant to Section 304 (the section then in effect) of the Baltimore County Zoning Regulations. The minimum required lot size is 6000 square feet.

In 1939, the subject parcel was an undivided part of a larger parcel owned by Charles Wilson Lovell and Laurine Lovell. The dimensions of the entire tract were 200 feet by 64.4 feet (12,880 square feet).

In 1950, Mr. and Mrs. Lovell conveyed out, by Deed, a portion of that entire tract unto Edwin T. Johnson and Agnes A. Johnson, the dimensions of which were 110 feet by 64.4 feet (7084 square feet) "saving and excepting" the balance of the tract. That parcel is now known as 216 Newburg Avenue. The remaining portion of the "Lovell" parcel is now known as 415 Forest Lane, the dimensions of which are 90 feet by 64.4 feet (5796 square feet, or 204 square feet less than the required 6000 square feet in a D.R. 5.5 zone).

Following a series of intervening conveyances, 216 Newburg Avenue (the 7084 square foot parcel) was conveyed into the Hakers by a Deed dated October 18, 1966. Thereafter, by a Deed dated June 18, 1970, the Lovells conveyed 415 Forest Lane (the subject, undersized

property) into the Hakers. Thus, as of June 18, 1970, the two parcels, albeit in different Deeds, were then under the common ownership of the Hakers.

It should be noted at this juncture that 216 Newburg Avenue is improved by a house and garage. On the other hand, 415 Forest Lane is generally an unimproved lot, but for the existence of a barbeque pit of some sort.

The Hakers occupied 216 Newburg Avenue as their residence generally from the time of their acquisition of that property in 1966 until they conveyed 216 Newburg Avenue unto David and Karen Humes by a Deed dated February 3, 1988. The Hakers, of course, retained 415 Forest Lane under their ownership at the time of their conveyance of 216 Newburg Avenue unto David and Karen Humes (Protestants before the Deputy Zoning Commissioner and before the County Board of Appeals of Baltimore County).

As can be seen on Petitioners' Exhibit 1 (and other exhibits, as well), unlike all of the other lots fronting on the east side of Forest Lane which have narrow fronts and deep backs, 415 Forest Lane has a wide front (90 feet) and a narrow back (64.4 feet). All of the houses constructed on the east side of Forest Lane and oriented to Forest Lane (as distinguished from 216 Newburg Avenue, which is, of course, fronted on and oriented to Newburg Avenue) have a common building line. The "building envelope" proposed by the Hakers' expert, Mr. Paul Lee, with the front yard set back variance requested by the Hakers, will result in any house constructed on 415 Forest Lane protruding more than 14 feet in front of the existing building line of all of the other houses on that side of Forest Lane which are oriented to Forest Lane.

ARGUMENT

It is the contention of the Petitioner, Frederick G. Timmel, that this matter is governed, as a matter of law, by Section 304 of the Baltimore County Zoning Regulations (BCZR) inasmuch as that was the applicable regulation in effect when the initial and the amended Petitions for Variance were filed by or on behalf of the Hakers. Section 304.1 did not become effective until June of 1992. Section 304.1 was created by County Council Bill No. 47-92 and did not substantively

that same is applicable and that the Petition for Special Hearing must be denied. The section provides only that "the drive-thru lane may not cross the principal pedestrian access to the facility." The natural and plain meaning of the words must be used. See State v. Fabritz, 276 Md. 416 (1975). There is no exception carved in the statute and I will not make one. Thus, I shall deny the Petition for Special Hearing as it relates to this site, but shall grant the Petitioner's variance request in this regard. Again, the traffic flow patterns and double drive-thru feature which is so integral to the Hot-N-Now format justify the granting of the variance.

The fourth variance presented relates to the number of parking spaces provided. The site plan shows that 45 parking spaces are provided, in lieu of required 64. The Petitioner noted again the language of Bill 110-93, which when effective will lessen the spaces required. Even so, the new requirement (50 spaces), cannot be attained. In support of this variance, the Petitioner's witnesses draw on their experience in operating Taco Bell restaurants and Hot-N-Now facilities elsewhere. They believe that the spaces provided are more than adequate. They also observe the limited space available on site due to the acreage of the parcel. Moreover, they note the format of the Hot-N-Now restaurant which contains no indoor seating. Thus, there will be a fast turnaround of the Hot-N-Now patrons who should not occupy parking spaces for any lengthy period. I am persuaded that these arguments are valid. Based upon same, I shall, likewise, grant this variance based upon these reasons. In my view, the Petitioner has satisfied its burden at law in this respect.

The fifth variance relates to signage on the property as specifically outlined above. This variance ties in with the last variance noted in the Petition, as it relates to an internally illuminated directional sign with

ORDER RECEIVED FOR FILING

Date

By

change the pre-existing regulation. Copies of Section 304, 304.1, and County Council Bill No. 47-92 are appended hereto and are incorporated by reference herein.

Section 304 provides as follows:

"SECTION 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]
- b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]
- c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]"

Specifically, we contend that the County Board of Appeals of Baltimore County erred as a matter of law in its failure to properly apply the provisions of Section 304. Compliance with the provisions of Section 304 is the threshold for the authority to grant the relief being sought by the Hakers.

The first sentence of Section 304 sets forth the scope of the regulation.

"A one-family dwelling may be erected on a lot having an area or width...less than that required...provided:..." (emphasis supplied).

The word "or" in that sentence takes on a particular significance when read in conjunction with subsection b.. A plain reading of the regulation reveals that relief may be granted if, and only if, all three of the conditions set forth separately in subsections a. and b. and c. are met, inasmuch as the subsections are set out in the conjunctive.

Thus, relief from less than the required area requirement may be granted or relief from width at the building line may be granted, but not both, and then, only if all three conditions of the subsections are met.

Subsection a. of Section 304 sets out two alternatives for an undersized lot. The first alternative is that

"...such lot shall have been duly recorded either by deed...prior to the adoption of these Regulations..."

The regulations were adopted in March 1955.

The record in this case is clear that from 1950 when Charles Wilson Lovell and Laurine Lovell took title to the tract comprised of what are now 216 Newburg Avenue and 415 Forest Lane, there was no other deed (duly recorded or otherwise) relating to 415 Forest Lane until that lot was conveyed by the Lovells to the Hakers in 1970. As a result, the first alternative of subsection a. of 304 was not met.

The second alternative requires

"...a validly approved subdivision prior to the adoption of these Regulations..."

The Hakers' expert, Paul Lee, opined that the "subdivision" occurred by virtue and as a result of the conveyance of July 19, 1950 when the parcel known as 216 Newburg Avenue was conveyed by the Lovells to the Johnsons, "saving and excepting" in that Deed the parcel now known as 415 Forest Lane. See Transcript, page 60.

There is no dispute that the 1950 Deed did not separately or independently describe that parcel that was "saved and excepted". See Transcript, Page 74.

Further, it is apparent that Mr. Lee used the term "subdivision" in its most garden variety or laypersons sense. See Transcript, page 73 and page 79. In effect, Mr. Lee testified that if you have a "whole" and take away a part of that whole there is a "subdivision".

That reading of the regulation requires reading out of the regulations words that were placed in the regulation , to wit, "...a validly approved subdivision...". Emphasis supplied.

If one were to adopt the position taken by Mr. Lee, those words become mere surplusage. That position begs the question, validly approved by whom?

Baltimore County has an extensive body of law and regulations detailing the subdivision approval process. See Title 26 of the Baltimore County Code. Thus, the term "subdivision" when used in the context of Section 304 a. is a term of art and for an undersized lot to be eligible for relief under the second alternative of subsection a. of Section 304, the lot had to have been "...in a validly approved subdivision..." prior to 1955. 415 Forest Lane was not in any "validly approved subdivision" prior to 1955 (see Transcript, pages 73 through 76) and consequently, the subject property is not eligible for the relief sought under either alternative in Section 304 a.

That should be the end of the matter given the conjunctive structure of the regulation.

Notwithstanding, to go on with the analysis of Section 304 it is important to look at subsection b. as it relates to the word "or" in the first sentence of Section 304. The Hakers seek relief from both the area requirement and setback relief, contrary to the plain reading of subsection b. which expressly and unequivocally states

"...That all other requirements of the height and area requirements are complied with...".

The subject property is deficient in two respects by being both undersized and in need of building line variance. Axiomatically, the subject property fails to be eligible for relief under the provisions of subsection b. of Section 304.

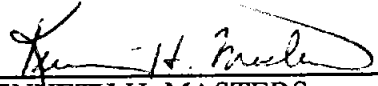
Additionally, it is less than clear whether the subject property is adversely affected by subsection c. This is so because the Hakers, while clearly not being the owners of "sufficient adjoining land" at the time their Petitions for Variances were filed, subjected themselves to a self-inflicted condition. They had, in fact, been the owners of "sufficient adjoining land" from 1970 into 1988.

For all of the foregoing reasons, the subject property does not qualify for relief under Section 304 BCZR or under 304.1, either) and the County Board of Appeals of Baltimore County was, therefor, without the authority, as a matter of law to grant the relief prayed.

Further, the front yard set back sought by the Hakers will result, notwithstanding Mr. Lee's opinion to the contrary, in incompatibility with the neighborhood by virtue of a building line being in excess of 14 feet beyond the existing building line of every other home fronting on that side of Forest Lane. Any house built on 415 Forest Lane will be conspicuous in its nonconformity to the neighborhood.

In conclusion, the Petitioner, Frederick G. Timmel, urges this Honorable Court to reverse the County Board of Appeals of Baltimore County as a matter of law. The Hakers contend, of course, that they were justifiably misled by apparent errors in county tax records. That fact, if believed, might suffice to protect the Hakers from the language of Section 304 c., only. However, mistake of fact provides no insulation from the conjunctive requirements of the balance of Section 304 (or 304.1). The subject property simply does not meet the requirements of the regulation and the County Board of Appeals of Baltimore County erred.

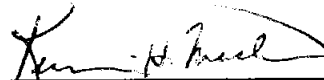
Respectfully submitted,


KENNETH H. MASTERS
Attorney for the Petitioner,
Frederick G. Timmel
1002 Frederick Road
Catonsville, Maryland 21228
(410) 788-2300

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 31st day of May, 1994, I caused to be mailed, postage prepaid, a copy of the foregoing Petitioner's Memorandum unto Francix X. Borgerding, Jr., Esquire, Attorney for the Respondents, James and Faye Haker, at

Mercantile Building, Suite 600, 409 Washington Avenue, Towson, Maryland 21204 and unto Ms. Kathleen C. Weidenhammer, Administrative Assistant, at County Board of Appeals of Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland 21204.


KENNETH H. MASTERS

less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above. [B.C.Z.R., 1955.]

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

- a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]
- b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]
- c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955.]

In case of complete or partial casualty loss by fire, wind-storm, flood, or otherwise of an existing dwelling that does not comply with height and/or area requirements of the zone in which it is located, such dwelling may be restored provided area and/or height deficiencies of the dwellings¹⁵ before the casualty are not increased in any respect. [B.C.Z.R., 1955.]

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential

SECTION 304 Use of Undersized Single-Family Lots

304.1 A one-family DETACHED OR SEMI-DETACHED dwelling may be erected on a lot having an area or width at the building line less than that required by the [height and] area regulations [, provided:] CONTAINED IN THESE REGULATIONS IF:

a. [That] such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to [adoption of these Regulations; and] MARCH 30, 1955; AND

b. [That] all other requirements of the height and area regulations are complied with; and

c. [That] the owner of the lot does not own sufficient adjoining land to conform [substantially] to the width and area requirements CONTAINED IN THESE REGULATIONS.

304.2.(A) ANY PERSON DESIRING TO ERECT A DWELLING PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL FILE WITH THE OFFICE OF ZONING ADMINISTRATION, AT THE TIME OF APPLICATION FOR A BUILDING PERMIT, PLANS SUFFICIENT TO ALLOW THE OFFICE OF PLANNING AND ZONING TO PREPARE RECOMMENDATIONS IN ACCORDANCE WITH THE GUIDELINES PROVIDED IN SUBSECTION (B) BELOW. ELEVATION DRAWINGS MAY BE REQUIRED IN ADDITION TO PLANS AND DRAWINGS OTHERWISE REQUIRED TO BE SUBMITTED AS PART OF THE APPLICATION FOR A BUILDING PERMIT. PHOTOGRAPHS REPRESENTATIVE OF THE NEIGHBORHOOD WHERE THE LOT OR TRACT IS SITUATED MAY BE REQUIRED BY THE OFFICE OF PLANNING AND ZONING IN ORDER TO DETERMINE APPROPRIATENESS OF THE PROPOSED NEW BUILDING IN RELATION TO EXISTING STRUCTURES IN THE NEIGHBORHOOD.

(B) AT THE TIME OF APPLICATION FOR THE BUILDING PERMIT, AS PROVIDED ABOVE, THE DIRECTOR OF ZONING ADMINISTRATION SHALL REQUEST COMMENTS FROM THE DIRECTOR OF THE OFFICE OF PLANNING AND ZONING (THE DIRECTOR). WITHIN FIFTEEN (15) DAYS OF RECEIPT OF A REQUEST FROM THE DIRECTOR OF ZONING ADMINISTRATION, THE DIRECTOR SHALL PROVIDE TO THE OFFICE OF ZONING ADMINISTRATION WRITTEN RECOMMENDATIONS CONCERNING THE APPLICATION WITH REGARD TO THE FOLLOWING:

Post-It Fax Note	7071	Date	# of pages 1
To Ken Masters	From Stella Lowery		
Co./Dept	Co. 7 ADM		

1. 1. SITE DESIGN: NEW BUILDINGS SHALL BE APPROPRIATE IN THE
2. CONTEXT OF THE NEIGHBORHOOD IN WHICH THEY ARE PROPOSED TO BE LOCATED.
3. APPROPRIATENESS SHALL BE EVALUATED ON THE BASIS OF NEW BUILDING SIZE, LOT
4. COVERAGE, BUILDING ORIENTATION AND LOCATION ON THE LOT OR TRACT.

5. 2. ARCHITECTURAL DESIGN: APPROPRIATENESS SHALL BE EVALUATED
6. BASED UPON ONE OR MORE OF THESE ARCHITECTURAL DESIGN ELEMENTS OR ASPECTS:

- 7. I. HEIGHT;
- 8. II. BULK OR MASSING;
- 9. III. MAJOR DIVISIONS, OR ARCHITECTURAL RHYTHM, OF FACADES;
- 10. IV. PROPORTIONS OF OPENINGS SUCH AS WINDOWS AND DOORS IN
11. RELATION TO WALLS;
- 12. V. ROOF DESIGN AND TREATMENT; AND,
- 13. VI. MATERIALS AND COLORS, AND OTHER ASPECTS OF FACADE
14. TEXTURE OR APPEARANCE.

15. 3. DESIGN AMENDMENTS: THE DIRECTOR MAY RECOMMEND APPROVAL,
16. DISAPPROVAL, OR MODIFICATION OF THE BUILDING PERMIT TO CONFORM WITH THE
17. RECOMMENDATIONS PROPOSED BY THE OFFICE OF PLANNING AND ZONING.

18. 304.3 PUBLIC NOTICE. UPON APPLICATION FOR A BUILDING PERMIT PURSUANT TO
19. THIS SECTION, THE SUBJECT PROPERTY SHALL BE POSTED CONSPICUOUSLY UNDER THE
20. DIRECTION OF THE OFFICE OF ZONING ADMINISTRATION WITH NOTICE OF THE APPLICATION
21. FOR A PERIOD OF AT LEAST FIFTEEN (15) DAYS. WITHIN THE FIFTEEN (15) DAY
22. POSTING PERIOD, ANY OWNER OR OCCUPANT WITHIN 1,000 FEET OF THE LOT MAY FILE A
23. WRITTEN REQUEST FOR A PUBLIC HEARING WITH THE OFFICE OF ZONING ADMINISTRATION,
24. AND A HEARING SHALL BE SCHEDULED WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE
25. REQUEST FOR PUBLIC HEARING. THE OFFICE OF ZONING ADMINISTRATION SHALL ESTABLISH
26. APPROPRIATE FEE SCHEDULES.

1. SCHEDULED WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE REQUEST FOR PUBLIC
2. HEARING. AT THE PUBLIC HEARING, THE ZONING COMMISSIONER SHALL MAKE A
3. DETERMINATION WHETHER THE PROPOSED DWELLING IS APPROPRIATE.

4. 304.5 FINAL APPROVAL.

5. (A) THE DIRECTOR OF ZONING ADMINISTRATION MAY ISSUE THE BUILDING
6. PERMIT; OR

7. (B) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE DIRECTOR OF
8. ZONING ADMINISTRATION MAY REQUIRE A PUBLIC HEARING BEFORE THE ZONING COMMISSIONER
9. PURSUANT TO 304.4 ABOVE; OR

10. (C) IF THE OFFICE OF ZONING ADMINISTRATION HAS NOT NOTIFIED THE
11. APPLICANT OF A DETERMINATION PURSUANT TO THE PROVISIONS OF THIS SECTION, OR HAS
12. NOT NOTIFIED THE APPLICANT PURSUANT TO SUBSECTION 304.4 ABOVE OF THE INTENTION TO
13. REQUIRE A PUBLIC HEARING, THE DWELLING SHALL BE CONSIDERED APPROPRIATE FOR
14. PURPOSES OF THIS SECTION.

15. 304.6 THE DECISION OF THE ZONING COMMISSIONER OR THE DIRECTOR OF ZONING
16. ADMINISTRATION MAY BE APPEALED, IN WHICH CASE THE HEARING SHALL BE SCHEDULED BY
17. THE BOARD OF APPEALS WITHIN FORTY-FIVE (45) DAYS FROM RECEIPT OF THE REQUEST.

18. 304.7 THE DIRECTOR OF ZONING ADMINISTRATION SHALL ESTABLISH APPROPRIATE
19. FEE SCHEDULES.

20. SECTION 2. AND BE IT FURTHER ENACTED, that this Act shall take effect
21. forty-five days after its enactment.

BO4792/BILLS92

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955;
Bill No. 47, 1992.]

304.1--A one-family detached or semi-detached dwelling may be erected on a lot having an area or width at the building line less than that required by the area regulations contained in these regulations if:

- A. such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to March 30, 1955; and {B.C.Z.R., 1955; Bill No. 47, 1992.}
- B. all other requirements of the height and area regulations are complied with; {B.C.Z.R., 1955.}
- C. the owner of the lot does not own sufficient adjoining land to conform to the width and area requirements contained in these regulations. [B.C.Z.R., 1955; Bill No. 47, 1992.]

304.2-A. Any person desiring to erect a dwelling pursuant to the provisions of this section shall file with the Office of Zoning Administration, at the time of application for a building permit, plans sufficient to allow the Office of Planning and Zoning to prepare the guidelines provided in Subsection B below. Elevation drawings may be required in addition to plans and drawings otherwise required to be submitted as part of the application for a building permit. Photographs representative of the neighborhood where the lot or tract is situated may be required by the Office of Planning and Zoning in order to determine appropriateness of the proposed new building in relation to existing structures in the neighborhood. {Bill No. 47, 1992.}

B. At the time of application for the building permit, as provided above, the director of zoning administration shall request comments from the Director of the Office of Planning and Zoning (the director). Within fifteen (15) days of receipt of a request from the director of zoning administration, the director shall provide to the Office of Zoning Administration written recommendations concerning the application with regard to the following: {Bill No. 47, 1992.}

- 1. Site design: New buildings shall be appropriate in the context of the neighborhood in which they are proposed to be located. Appropriateness shall be evaluated on the basis of new building size, lot coverage, building orientation and location on the lot or tract.
- 2. Architectural design: Appropriateness shall be evaluated based upon one or more of these architectural design elements or aspects:
 - a. height;
 - b. bulk or massing;
 - c. major divisions, or architectural rhythm, of facades;

advertising logos. As it relates to this variance, the combined marketing approach proposed is of note. There are few, if any, similar marketing strategies presently existing in Baltimore County. Although Taco Bell and Hot-N-Now are owned by the same corporate conglomerate, their marketing strategies are different. The Taco Bell menu features southwestern items whereas Hot-N-Now is oriented towards classic American fast food. Additionally, although Taco Bell features a large seating area, Hot-N-Now has no seating space. These differences mandate which might otherwise be considered excess signage under the regulations. Clearly, sufficient directional signs are necessary to promote proper traffic flow. Further, adequate signage is needed to advertise the varied services and food items offered. I reviewed the site plan closely as it relates to the location and number of signs. I believe that the plan is entirely appropriate with this use, as well as the surrounding locale. Thus, this variance shall also be granted.

Having disposed of the items requested within the Petitions, attention is next turned to several of the Zoning Plans Advisory Committee (ZAC) comments which were offered by the reviewing Baltimore County agencies. First, it is to be noted that a comment was originally received from the Mass Transit Administration that a bus stop be implemented on Belair Road at this location. However, subsequently, a corrected comment was received from the MTA that this request was withdrawn. Thus, the original request as contained within the MTA's letter, dated May 13, 1993, will be disregarded and a bus stop shelter will not be required.

Secondly, a comment was received from the Office of Planning and Zoning (OPZ) suggesting uniform architectural treatment connecting the two fast food restaurants. In fact, proposed architectural elevation drawings were submitted from OPZ. In response to this request by OPZ, substantial testimo-

ORDER RECEIVED FOR FILING

Date

By

8/30/93
Mr. Hovak

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF
FREDERICK G. TIMMEL
410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse
400 Washington Ave., Baltimore, MD 21204

*
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*
*
* CIVIL
ACTION
* No. 94-CV-02068
/75/152

IN THE CASE OF: IN THE MATTER OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH SIDE
OF FOREST LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 92-97-SPHA

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PROCEEDINGS BEFORE THE ZONING COMMISSIONER
AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Robert O. Schuetz and S.
Diane Levero, constituting the County Board of Appeals of Baltimore
County, and in answer to the Petition for Judicial Review directed
against them in this case, herewith return the record of
proceedings had in the above-entitled matter, consisting of the
following certified copies or original papers on file in the Office
of Zoning Administration and Development Management and the Board
of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND
OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
OF BALTIMORE COUNTY

No. 92-97-SPHA RECEIVED AND FILED

August 22, 1991 94 MAY 14 PM 2:56 Petition for Special Hearing filed to
determine that Sec. 304.3 does not apply for

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

this undersized lot, as a result of circumstance, filed by James L. Haker.

October 7 Comments of Baltimore County Zoning Plans Advisory Committee.

March 2, 1992 Petition for Variance to permit a lot area of 5,796 sq. ft. in lieu of the required 6,000 sq. ft.; a rear yard of 20' in lieu of the required 30' and a front yard setback of 36.5 +/-, filed by Francis X. Borgerding, Jr., Esquire, on behalf of James L. Haker.

June 11 Publication in newspapers.

July 8 Certificate of Posting of property.

July 8 Hearing held on Petition by the Deputy Zoning Commissioner.

August 13, 1992 Order of the Deputy Zoning Commissioner in which Petition for Special Hearing is DENIED; and Petition for Variance is DISMISSED AS MOOT.

September 11 Order of Appeal filed by Francis X. Borgerding, Esquire, on behalf of Petitioners.

October 28, 1993 Hearing before the Board of Appeals.

February 10, 1994 Opinion and Order of the Board in which the Petition for Special Hearing and Petition for Zoning Variance GRANTED.

February 17 Amended Order of the Board to correct clerical error in which portion of language was inadvertently omitted; Petition for SPH and Petition for Variance GRANTED.

March 9 Petition for Judicial Review filed in the Circuit Court for Baltimore County by Kenneth H. Masters, Esquire on behalf of Frederick G. Timmel, Protestant.

March 10 Copy of Petition for Judicial Review received by the Board of Appeals from the Circuit Court for Baltimore County.

March 11 Certificate of Notice sent to interested parties.

May 4

Transcript of testimony filed.

- Petitioner's Exhibits No. 1 -Plat of 216 Newburg & 415 Forest Lane.
2 -A thru E - Pictures of subject property.
3 -Contract from Superior Builders for 415 Forest Lane 7/13/89.
4 -Office of Assessments Inquire 12/19/88.
5 -Plat - Portion Balto. Co. Tax Map.
6 -Tax record for Forest Lane lot 7/28/88.
7 -List of properties with 3 to 4 blocks of subject property that are undersized lots - from the Lusk report.
8 -Letter to Robert Haines, Zoning Commissioner 10/17/89.
9 -Letter from James Dyer, Zoning Supervisor 1/10/90 to James Haker.
10 -Zoning Regulations 1/22/45.
11 -Zoning Regulations 1955.
12 -Deed from Mr. Lovell to Hagers 6/18/70.
13 -Description of subject property to Paul Lee Engineering 2/20/92.
14 -Lot layout of Lots between Newburg Avenue, Forest Lane, Forest Spring Drive, Locust Drive.

- Protestant's Exhibits Nos. 1 -Chain of title & 7 Deeds, Liber 1059 Deed from Mengers to Lovell 1939; Deed from Lovell to Johnson 1950 conveying 215 Newburg Avenue.
2 -Petition signed by neighborhood residents.
3 -Series of letters (10) beginning with letter from Norman Schmuff, President, South Rolling Road Community Assoc. 8/15/93.
4 -Appraisal by Burns Real Estate 6/10/93.

May 4, 1994

Record of Proceedings filed in the Circuit
Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered
and upon which said Board acted are hereby forwarded to the Court,
together with exhibits entered into evidence before the Board.

Respectfully submitted,

Charlotte E. Radcliffe

Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals of Baltimore
County, Room 49, Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: People's Counsel for Baltimore County
Kenneth H. Masters, Esquire
Frederick G. Timmel
Francis X. Borgerding, Esquire
James L. Haker



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 11, 1994

Francis X. Borgerding, Jr., Esquire
DINENNA AND BRESCHI
Suite 600
Mercantile-Towson Building
409 Washington Avenue
Towson, MD 21204

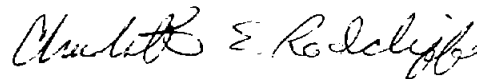
RE: Civil Action No. 94-CV-02068
James L. Haker, et ux

Dear Mr. Borgerding:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on March 9, 1994 in the Circuit Court for Baltimore County from the majority decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Enclosed is a copy of the Certificate of Notice, which has been filed in the Circuit Court.

Very truly yours,


Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Mr. James L. Haker
Mr. Paul Lee
Ms. Karen A. Humes
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon /ZADM





County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

March 11, 1994

Kenneth H. Masters
MCFARLAND & MASTERS
1002 Frederick Road
Catonsville, MD 21228

RE: Civil Action No. 94-CV-02068
James L. Haker, et ux

Dear Mr. Masters:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

A handwritten signature in cursive script, reading "Charlotte E. Radcliffe".

Charlotte E. Radcliffe
Legal Secretary

Enclosure

cc: Frederick G. Timmel



IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY

PETITION OF FREDERICK G. TIMMEL
410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE DECISION OF
THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Room 49, Old Courthouse, 400 Washing-
ton Avenue, Towson, MD 21204

CIVIL
ACTION
No. 94-CV-02068
/75/152

IN THE CASE OF: IN THE MATTER OF
JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH SIDE
OF FOREST LANE, 130 FEET WEST OF THE
CENTERLINE OF NEWBURG AVENUE
(415 FOREST LANE)
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT
CASE NO. 92-97-SPHA

* * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, William T. Hackett, Robert O. Schuetz, and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Kenneth H. Masters, Esquire, MCFARLAND & MASTERS, 1002 Frederick Road, Catonsville, Maryland 21228, Counsel for Petitioner; Frederick G. Timmel, Petitioner; Francis X. Borgerding, Jr., Esquire, DINENNA AND BRESCHI, 409 Washington Avenue, Suite 600, Towson, MD 21204, Counsel for Mr. Haker; Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine, MD 21797; a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

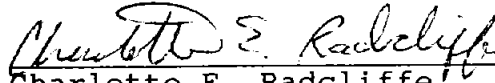
RECEIVED AND FILED

94 MAR 11 PM 3:23

CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary
County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Kenneth H. Masters, Esquire, MCFARLAND & MASTERS, 1002 Frederick Road, Catonsville, Maryland 21228, Counsel for Petitioner; Frederick G. Timmel, Petitioner; Francis X. Borgerding, Jr., Esquire, DINENNA AND BRESCHI, 409 Washington Avenue, Suite 600, Towson, MD 21204, Counsel for Mr. Haker; Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine, MD 21797; this 11th day of March, 1994.



Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals, Room 49 -Basement
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744-3423

February 28, 1994

Ms. Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Case No. 92-97-SPHA
James L. Haker, et ux.
Decision dated February 10, 1994 as amended
on February 17, 1994

Dear Ms. Weidenhammer:

Enclosed please find a copy of the Petition of Frederick G. Timmel for Judicial Review of the above decision of the County Board of Appeals of Baltimore County.

Please advise me, or in my absence, Brian McFarland, Esquire, of my office, of what arrangements are necessary to have the proceedings before the County Board of Appeals of Baltimore County transcribed. I obviously want transcription.

Thank you for your assistance.

Very truly yours,


KENNETH H. MASTERS

KHM:fj

enc.

cc: Mr. Frederick G. Timmel

*3/07/94 -
Spoke w/ B. McFarland -
Hearing date 10/28/94
CP = Court Reporter
will l.m. for her to
call Masters or McFarland.
H.G.W.*

11:11 AM 2-28-94

CLERK OF COURT
BALTIMORE COUNTY

LAW OFFICES
McFARLAND & MASTERS

1002 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228

C. VICTOR MCFARLAND
KENNETH H. MASTERS

BRIAN V. MCFARLAND

TELEPHONE
(410) 788 - 2300
744 - 0931
788 - 0311
FAX 744-3423

February 28, 1994

Clerk
Circuit Court for Baltimore County
County Courts Building
P.O. Box 6754
Towson, Maryland 21285-6754

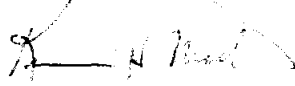
Attn: Pat Almony

Re: Petition of Frederick G. Timmel for Judicial Review

Dear Madam Clerk:

Enclosed herewith please find an original Petition for Judicial Review along with one copy, pursuant to Maryland Rule 7-202(d), for the County Board of Appeals of Baltimore County.

Very truly yours,


KENNETH H. MASTERS

KHM:pb

enc.

cc: Frederick G. Timmel
Francis X. Borgerding, Jr., Esquire
County Board of Appeals of Baltimore County

ny was received from the Taco Bell representatives. As noted above, Taco Bell and Hot-N-Now facilities, although owned by the same corporation, are radically different in scope and marketing strategy. The proposed Taco Bell facility will be of a southwestern architectural style in keeping with the Tex-Mex menu. The Hot-N-Now with its distinctive lightning bolts, is more in keeping with the classic American fast food menu. I am persuaded by the Petitioner's argument in this respect. Although I am appreciative of the comments from OPZ, the divergent marketing strategies to be employed justify that similar architectural improvements are not warranted. Thus, I will not require the Petitioner to comply with OPZ's comment in this respect.

Lastly, several comments were received relating to what might be labeled development issues. It is to be noted that this project has received a limited exemption pursuant to Section 26-127(b) of the Baltimore County Development regulations. This exempts the project from the Community Input Meeting and the Hearing Officer's hearing. However, the development regulations require the Petitioner to nonetheless submit a plan in accordance with Baltimore County standards and regulations. I am persuaded that the other comments received as part of this case have been/will be satisfied during that development process. Thus, additional restrictions shall not be imposed.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 30th day of August, 1993, that, pursuant to the Petition for Special Exception, approval for a fast food restaurant drive-thru with outdoor

ORDER RECEIVED FOR FILING

Date

8/30/93

By

M. D. Davis

PETITION OF FREDERICK G. TIMMEL
of 410 Forest Lane
Catonsville, Maryland 21228

FOR JUDICIAL REVIEW OF THE
DECISION OF THE
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

IN THE CASE OF
IN THE MATTER OF THE
APPLICATION OF JAMES L. HAKER, ET UX
FOR A SPECIAL HEARING AND VARIANCE
ON PROPERTY LOCATED ON THE NORTH
SIDE OF FOREST LANE, 130 FEET WEST OF
THE CENTERLINE OF NEWBURG AVENUE
(415 Forest Lane)
1st ELECTION DISTRICT
1st COUNCILMANIC DISTRICT

Case No.: 92-97-SPHA

RECEIVED
COUNTY BOARD OF APPEALS

* IN THE
* 94 MAR 10 PM 1:51

*
* CIRCUIT COURT

*
* FOR

*
* BALTIMORE

*
* COUNTY

*
* Civil Action

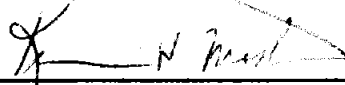
*
* No.: 94CN0068/75/152

* * * * *

PETITION FOR JUDICIAL REVIEW

Now comes the Petitioner, Frederick G. Timmel, a witness and Protestant in the proceeding before the County Board of Appeals of Baltimore County from which this review is being sought and as an aggrieved property owner residing across Forest Lane from the subject property, by his Attorney, Kenneth H. Masters, and Petitions this Honorable Court pursuant to Maryland Rule 7-202 for Judicial Review of the decision of the County Board of Appeals for Baltimore County dated February 10, 1994, as amended on February 17, 1994.

RECEIVED AND FILED
94 MAR -9 AM 10:11
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY


Kenneth H. Masters
Attorney for the Petitioner
1002 Frederick Road
Catonsville, Maryland 21228
(410) 788-2300

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 15, 1992

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
N/S of Forest Lane, 130' W of the c/l of Newburg Avenue
(415 Forest Lane)
1st Election District, 1st Councilmanic District
JAMES L. HAKER, ET UX - Petitioner
Case No. 92-97-SPHA

RECEIVED
COUNTY BOARD OF APPEALS
92 SEP 15 PM 2:37

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 11, 1992 by Francis X. Borgerding, Jr.. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Arnold Jablon".

Arnold Jablon - Director
Zoning Administration and
Development Management

AJ:cer

Enclosures

cc: Mr. & Mrs. James L. Haker, 16453 Frederick Road, Woodbine MD 21797

Francis X. Borgerding, Jr., Esquire - DiNenna and Breschi
409 Washington Avenue, Suite 600 - Towson, Maryland 21204

Paul Lee - 304 W. Pennsylvania Avenue, Towson, Maryland 21204

Karen A. Humes - 216 Newburg Avenue Baltimore, MD 21228

Kenneth Masters, Esquire - 1002 Frederick Road Baltimore, MD 21228

People's Counsel - 400 Washington Avenue, Towson, MD 21204



10/29/92 - Following parties notified of hearing set for January 14, 1993 at 10:00 a.m.:

Francis X. Borgerding, Jr., Esquire
Mr. and Mrs. James L. Haker
Kenneth H. Masters, Esquire
Ms. Karen A. Humes
Mr. Paul Lee
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

11/09/92 -Ltr from Kenneth Masters, Counsel for Mr. & Mrs. Humes, requesting POSTPONEMENT of above matter until after April 22, 1993, citing Legislative privilege /Mr. Masters is member of General Assembly.

11/12/92 - Above parties notified of POSTPONEMENT AND REASSIGNMENT to April 27, 1993 at 10:00 a.m. at the request of Counsel for Protestants citing legislative privilege.

3/24/93 -Notice of POSTPONEMENT & Reassignment sent to above parties; postponed to Wednesday, June 9, 1993 at 10:00 a.m.

4/29/93 -Ltr dtd 4/28/93 from Kenneth Masters, Esquire, requesting postponement from June 9 hearing date; will begin a jury trial that date in Circuit Court/ Baltimore City.

5/04/93 -Postponement granted; notices sent to all parties; matter reset to Wednesday, August 18, 1993 at 10:00 a.m.

8/04/93 -Ltr from F. Borgerding, Jr., Esquire requesting PP; client to be out of town on assigned hearing date.

8/05/93 -Notice of PP and Reassignment sent to above parties; postponement GRANTED; case to be heard on Wednesday, September 15, 1993 at 10:00 a.m.

8/12/93 -T/C from K. Masters, Esq. --scheduled to appear in Baltimore City Court on morning of 9/15/93; however, could be available for afternoon hearing before the Board. Conference call w/Frank Borgerding --agreed to reassignment of time from 10:00 a.m. to 1:00 p.m. on 9/15/93.

8/13/93 -Notice of Reassignment sent to all parties; matter reassigned to 1:00 p.m. on September 15, 1993; date of hearing to remain unchanged. Received letter of confirmation from K. Masters, Esq. this date.

9/02/93 -Ltr from Frank Borgerding -Clients unavailable on assigned date of 9/15/93; requests postponement.

9/03/93 - Ltr from Kenneth Masters --objec ting to postponement request; but asking that should it be granted, Counsel be consulted to arrive at firm date.

Page 2 --James L. Haker, et ux

9/08/93 -Postponement to be GRANTED as requested by Counsel for Petitioner/Appellant;
letter from Chairman Hackett to accompany Notice of PP and Reassignment
indicating that any further conflict with the new assignment date are to be
resolved prior to date of hearing; case rescheduled to Thursday, October 28,
1993 at 10:00 a.m.

JAMES L. HAKER, ET UX

92-97-SPH

N/S of Forest Lane, 130' West of c/l
of Newburg Avenue (415 Forest Lane)

1st Election District

RE: Special Hearing and Variance on property

No. CR-93-305-SPH

August 22, 1991	Petition for Special Hearing filed to determine that Sec. 304.3 does not apply for this undersized lot, as a result of circumstance, filed by James L. Haker.
March 2, 1992	Petition for Variance to permit a lot area of 5,796 sq. ft. in lieu of the required 6,000 sq. ft.; a rear yard of 20' in lieu of the required 30' and a front yard setback of 36.5 +/-, filed by Francis X. Borgerding, Jr., Esquire on behalf of James L. Haker.
July 8	Hearing held on Petition by DZC.
August 13, 1992	Order of the DZC, in which Petition for Special Hearing is DENIED; and Petition for Variance is DISMISSED AS MOOT.
September 11	Order of Appeal filed by Francis X. Borgerding, Esquire, on behalf of Petitioners.
October 28, 1993	Hearing before the Board of Appeals.
February 10, 1994	Opinion and Order of the Board in which the Petition for Special Hearing and Petition for Zoning Variance GRANTED.
February 17	Amended Order of the Board to correct clerical error in which portion of language was inadvertently omitted; Petition for SPH and Petition for Variance GRANTED.
March 9	Petition for Judicial Review filed in the CCT by Kenneth H. Masters, Esquire on behalf of Frederick G. Timmel, Protestant.
March 10	Copy of Petition for Judicial Review received by the Board of Appeals from the CCT.
March 11	Certificate of Notice sent to interested parties.
May 4	Transcript of testimony filed; Record of Proceedings filed in the Circuit Court.
October 27	Order of the Cct wherein the decision of C.B. of A. was AFFIRMED (Hon. John O. Hennegan)

PETITION OF: Frederick G. Timm

CIVIL ACTION # 75/152 /94-CV-02068

IN THE MATTER OF JAMES L. HAKER, ET UX

RECEIVED FROM THE COUNTY BOARD OF
APPEALS EXHIBITS, BOARD'S RECORD
EXTRACT & TRANSCRIPT FILED IN THE
ABOVE-ENTITLED CASE, AND ZONING
COMMISSIONER'S FILE AND EXHIBITS

Mary Rose
Clerk's Office

Date: 5/4/94

94 AUG -5 PM 3:49

Sandra Sanidas — 887-2660
Civil Assignment Commissioner

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE

COUNTY COURTS BUILDING

401 Bosley Avenue

P.O. Box 6754

Towson, Maryland, 21285-6754

Joyce Grimm — 887-3497
Director of Central Assignment

Kathy Rushton — 887-2660
Jury Assignments — Civil

Jan Dockman — 887-2661
Non-Jury Assignments — Civil

THOMAS H. HASTINGS, ESQ.

June 16, 1994

THOMAS H. HASTINGS, JR., ESQ.

Court's Board of Appeals of Baltimore, Co. P.R.
Office of Law
400 Washington Ave
Towson, Md 21204

RE: **NOT JURY 94 CV 2068 IN THE MATTER OF THE APPLICATION JAMES L. HARRIS**
DEFENDANT'S MOTION FOR A JURY TRIAL

CONFIDENTIAL

All counsel and their clients MUST attend this Settlement Conference in person. All Insurance Representatives or, in domestic cases, a corroborating witness MUST attend this Settlement Conference in person. Failure of attendance in person of all parties listed above can result in sanctions being imposed, unless prior approval of the Court is obtained. THERE WILL BE NO EXCEPTIONS.

HEARING DATE: **Appeal: 1 day Thursday, August 18, 1994 @ 9:30 a.m.**

WITH THE EXCEPTION OF DOMESTIC CASES, COURT COSTS MUST BE PAID ON THE DATE OF SETTLEMENT CONFERENCE OR TRIAL, UPON SETTLEMENT OF THE CASE.

POSTPONEMENT POLICIES:

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other to conform calendars for the above date(s).
Claim of not receiving notice will not constitute reason for postponement.

A request for postponement MUST BE MADE IN WRITING to the Assignment Office with a copy to all counsel involved.

COUNSEL MUST NOTIFY THE CIVIL ASSIGNMENT OFFICE WITHIN 15 DAYS OF RECEIPT OF THIS NOTICE AS TO ANY CONFLICTS THAT MAY EXIST WITH THE ABOVE REFERENCED DATES. OTHERWISE, IT WILL BE ASSUMED THAT THESE DATES ARE VALID AND NO POSTPONEMENT WILL BE GRANTED.

INDIVIDUALS WITH DISABILITIES, WHO MAY NEED ACCOMMODATIONS PRIOR TO COURT DATES, SHOULD CONTACT THE COURT ADMINISTRATOR'S OFFICE (887-2687) OR USE THE COURTS TDD LINE (887-3018) OR THE VOICE/TDD MD. RELAY SERVICE 1-800-735-2258.

94 JUN 20 PM 2:34

RECEIVED
COURT BOARD OF APPEALS

IN RE: PETITIONS FOR SPECIAL HEARING, * BEFORE THE
 SPECIAL EXCEPTION & ZONING VARIANCE * ZONING COMMISSIONER
 NEC Belair Rd. & Rossville Blvd. *
 7933-7935 Belair Road * OF BALTIMORE COUNTY
 Taco Bell *
 14th Election District * Case No. 93-472-SPHXA
 6th Councilmanic District *
 Legal Owner: Emil B. Pielke *
 Applicant: Taco Bell *
 Petitioners

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on Petitions for Special Hearing, Special Exception and Variance for the property located at 7933-7935 Belair Road near the Perry Hall community of Baltimore County. The Petitions are filed by the subject property owner, Emil B. Pielke and the Applicant/Lessee, Taco Bell Corporation. Within the Petition for Special Exception, approval is sought for a fast food restaurant drive-thru with outdoor seating in a B.R. zone, pursuant to Section 236.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). In the alternative, the Petitioners seek relief under the Petition for Special Hearing to approve a fast food restaurant drive-thru with outdoor seating as permitted by right in all business zones (B.R., B.M. and B.L.). Further, under the Petition for Special Hearing, a determination is sought that the requirements of Section 409.10.B apply only to the stacking requirements per the individual use as set forth in Section 409.10.A. Lastly, significant variance relief is requested. This includes variances from the following sections:

1. From Section 238.2 of the B.C.Z.R. to permit a setback of 32 ft. between buildings in lieu of the required 60 ft.
2. From Section 301.1.A and 238.2 to permit an open projection (canopy) with a setback of 4 ft. in lieu of the required 22.5 ft. as measured from the proposed building to the lease line.

ORDER RECEIVED FOR FILING

Date

By

8/30/93

[Signature]

Previously, the property was used as a retail center (Valley View Farms store). However, it is now vacant. Numerous commercial/retail uses surround the site. These include a Toyota dealership immediately to the north on Belair Road, a large shopping center to the south, and a Levitz Furniture store to the east. As noted above, this is a highly commercialized strip.

Taco Bell has entered into a lease with the property owner to construct a Taco Bell fast food restaurant on site. Also proposed is a Hot-N-Now drive-thru restaurant. The proposed improvements, which include the restaurant buildings as well as a parking and driveway scheme are clearly shown on the site plan.

The Taco Bell restaurant will be similar to other Taco Bell outlets which exist throughout Baltimore County. The format and style of these restaurants is well known to residents of Baltimore County and this Zoning Commissioner. The Taco Bell restaurant will be 2,348 sq. ft. in area. It will serve a southwestern food menu and will contain indoor seating. Further, a drive-thru is proposed for carryout pick-up.

The Hot-N-Now facility is somewhat new to Baltimore County. Although other sites have been approved for Hot-N-Now restaurants, no such restaurants are currently operating in the County. The Hot-N-Now chain is owned by Taco Bell and features a distinct fast food menu. Specifically, hamburgers, french fries and similar fast foods are sold. Additionally, unlike other fast food restaurants, such as McDonalds, Burger King, etc., there is no seating area. The Hot-N-Now restaurant building is only 828 sq. ft. in area and caters exclusively to carry-out business. A double driveway is proposed with order/pick-up windows on both sides of the building.

Although the site plan speaks for itself, certain features of the proposed layout are of note. It is first to be observed that the property lies

ORDER RECEIVED FOR FILING

Date

8/30/93

By

M. J. Jank

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 30, 1993

Mr. William Monk
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204

RE: Case No. 93-472-SPHXA
Petitions for Special Hearing, Special Exception and Variances
Legal Owner: Emil P. Pielke
Applicant/Lessee: Taco Bell Corporation

Dear Mr. Monk:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing, Special Exception and Variances have been granted, in part, and denied, in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.

cc: Mr. Anthony K. Byrd, Taco Bell Corp., 620 Herndon Pkwy. Suite 200
Herndon, VA 22070
cc: Mr. Emil B. Pielke, 7937 Belair Road, Baltimore, Md. 21236-5718

awaits only the expiration of the 45 day waiting period before same becomes law.

In view of these developments, it is clear that the County Council intends on classifying a Hot-N-Now type facility as permissible by right in a B.M. zone. Thus, based on the enactment of this legislation, I will revise my earlier holding in the previous case and grant the Petition for Special Hearing submitted herein. That is, the Hot-N-Now restaurant is permissible as of right at this subject location, zoned B.M.-C.S.-2.

Having resolved the Petition for Special Hearing, in the above fashion, a portion of the Petition for Special Exception becomes moot. Thus, I need not decide that issue, although note in passing that the Hot-N-Now restaurant would meet the standards set forth in Section 502.1 of the B.C.Z.R. based on the evidence and testimony presented. Clearly, the proposed use is not detrimental to the surrounding locale and is appropriate at this location.

Turning to the Petition for Variance, a number of variances are specifically requested.

First, a variance is requested from Section 238.2 of the B.C.Z.R. to permit a setback of 32 ft. between the Taco Bell restaurant and the Hot-N-Now facility. Mr. Monk testified that this variance was necessary due to certain site constraints and to promote a better traffic flow and parking scheme. Clearly, as shown on the site plan and photos presented, the site is of limited area. Moreover, the placement of the existing buildings appears entirely appropriate. They are both located so as to be on the portion of the lot closest to Belair Road, near the roadway. Further, the proposed parking arrangement and traffic flow is appropriate. To require that the buildings be 60 ft. apart would disrupt the scheme. Further, a

ORDER RECEIVED FOR FILING

Date

8/30/93

By

Dr. G. Monk

denial of the variance would cause a legitimate practical difficulty upon the Petitioner and his property. Thus, this variance shall be granted in that same complies with the applicable standards of Section 307 of the B.C.Z.R.

The second variance requested (from Sections 301.1.A and 238.2) relates to the canopy on the Hot-N-Now building, which is located but 4 ft. from the lease line. It is to be noted that Mr. Pielke owns the property north of the subject site on Belair Road. The variance request relates to the property line of the site leased by the Taco Bell Corporation, as opposed to Mr. Pielke's entire holdings and the property (tract) boundary for same. Again, for the same reasons which were presented in support of the first variance, this variance should also be granted. To require a 22.5 ft. setback of the canopy from the least line would destroy the traffic pattern for the site and interrupt an, otherwise, workable traffic flow. The Petitioner, likewise, met its burden as it relates to Section 307 in this instance, and the variance shall be granted.

The third variance requested relates to the proposed drive-thru lane. The relief requested herein is also referenced within the Petition for Special Hearing. Specifically, the variance relief is sought from Section 409.10.B to permit the drive-thru lane to cross the principal pedestrian access to the facility. As is shown on the site plan, the drive-thru lane forks into 2 lanes to serve each of the proposed restaurants. This split occurs after the lane crosses the pedestrian access. Moreover, none of the stacking spaces intrude on the area comprised by the pedestrian access. Therefore, the Petitioner avers that Section 409.10.B is not applicable to this site plan, or, in the alternative, that variance relief from this section should be granted. After examination of Section 409.10.B., I believe

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Date

8/30/93

By

Ch. Gorch

that same is applicable and that the Petition for Special Hearing must be denied. The section provides only that "the drive-thru lane may not cross the principal pedestrian access to the facility." The natural and plain meaning of the words must be used. See State v. Fabritz, 276 Md. 416 (1975). There is no exception carved in the statute and I will not make one. Thus, I shall deny the Petition for Special Hearing as it relates to this site, but shall grant the Petitioner's variance request in this regard. Again, the traffic flow patterns and double drive-thru feature which is so integral to the Hot-N-Now format justify the granting of the variance.

The fourth variance presented relates to the number of parking spaces provided. The site plan shows that 45 parking spaces are provided, in lieu of required 64. The Petitioner noted again the language of Bill 110-93, which when effective will lessen the spaces required. Even so, the new requirement (50 spaces), cannot be attained. In support of this variance, the Petitioner's witnesses draw on their experience in operating Taco Bell restaurants and Hot-N-Now facilities elsewhere. They believe that the spaces provided are more than adequate. They also observe the limited space available on site due to the acreage of the parcel. Moreover, they note the format of the Hot-N-Now restaurant which contains no indoor seating. Thus, there will be a fast turnaround of the Hot-N-Now patrons who should not occupy parking spaces for any lengthy period. I am persuaded that these arguments are valid. Based upon same, I shall, likewise, grant this variance based upon these reasons. In my view, the Petitioner has satisfied its burden at law in this respect.

The fifth variance relates to signage on the property as specifically outlined above. This variance ties in with the last variance noted in the Petition, as it relates to an internally illuminated directional sign with

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Date

By

advertising logos. As it relates to this variance, the combined marketing approach proposed is of note. There are few, if any, similar marketing strategies presently existing in Baltimore County. Although Taco Bell and Hot-N-Now are owned by the same corporate conglomerate, their marketing strategies are different. The Taco Bell menu features southwestern items whereas Hot-N-Now is oriented towards classic American fast food. Additionally, although Taco Bell features a large seating area, Hot-N-Now has no seating space. These differences mandate which might otherwise be considered excess signage under the regulations. Clearly, sufficient directional signs are necessary to promote proper traffic flow. Further, adequate signage is needed to advertise the varied services and food items offered. I reviewed the site plan closely as it relates to the location and number of signs. I believe that the plan is entirely appropriate with this use, as well as the surrounding locale. Thus, this variance shall also be granted.

Having disposed of the items requested within the Petitions, attention is next turned to several of the Zoning Plans Advisory Committee (ZAC) comments which were offered by the reviewing Baltimore County agencies. First, it is to be noted that a comment was originally received from the Mass Transit Administration that a bus stop be implemented on Belair Road at this location. However, subsequently, a corrected comment was received from the MTA that this request was withdrawn. Thus, the original request as contained within the MTA's letter, dated May 13, 1993, will be disregarded and a bus stop shelter will not be required.

Secondly, a comment was received from the Office of Planning and Zoning (OPZ) suggesting uniform architectural treatment connecting the two fast food restaurants. In fact, proposed architectural elevation drawings were submitted from OPZ. In response to this request by OPZ, substantial testimo-

ORDER RECEIVED FOR FILING

Date

By

ny was received from the Taco Bell representatives. As noted above, Taco Bell and Hot-N-Now facilities, although owned by the same corporation, are radically different in scope and marketing strategy. The proposed Taco Bell facility will be of a southwestern architectural style in keeping with the Tex-Mex menu. The Hot-N-Now with its distinctive lightning bolts, is more in keeping with the classic American fast food menu. I am persuaded by the Petitioner's argument in this respect. Although I am appreciative of the comments from OPZ, the divergent marketing strategies to be employed justify that similar architectural improvements are not warranted. Thus, I will not require the Petitioner to comply with OPZ's comment in this respect.

Lastly, several comments were received relating to what might be labeled development issues. It is to be noted that this project has received a limited exemption pursuant to Section 26-127(b) of the Baltimore County Development regulations. This exempts the project from the Community Input Meeting and the Hearing Officer's hearing. However, the development regulations require the Petitioner to nonetheless submit a plan in accordance with Baltimore County standards and regulations. I am persuaded that the other comments received as part of this case have been/will be satisfied during that development process. Thus, additional restrictions shall not be imposed.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

IT IS THEREFORE ORDERED, by the Zoning Commissioner for Baltimore County, this 30th day of August, 1993, that, pursuant to the Petition for Special Exception, approval for a fast food restaurant drive-thru with outdoor

ORDER RECEIVED FOR FILING

Date

8/30/93

By

M. D. Davis

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 30, 1993

Mr. William Monk
222 Bosley Avenue, Suite B-7
Towson, Maryland 21204

RE: Case No. 93-472-SPHXA
Petitions for Special Hearing, Special Exception and Variances
Legal Owner: Emil P. Pielke
Applicant/Lessee: Taco Bell Corporation

Dear Mr. Monk:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing, Special Exception and Variances have been granted, in part, and denied, in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn
encl.

cc: Mr. Anthony K. Byrd, Taco Bell Corp., 620 Herndon Pkwy. Suite 200
Herndon, VA 22070
cc: Mr. Emil B. Pielke, 7937 Belair Road, Baltimore, Md. 21236-5718



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

7933 Belair Road

which is presently zoned BR-CS-2

BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

- 1) a restaurant ~~FAST FOOD~~ drive-thru with outdoor seating as a use to be permitted by right in all of the business zones (BR, BM, and BL).
- 2) that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

~~Contract Purchaser/Lessor~~ Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Signature

(Type or Print Name)

Signature

7937 Belair Road

661-6629

Address

Phone No.

Baltimore, MD

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Avenue, B-7 410-494-8931

Address Towson, MD 21204

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL

OTHER

REVIEWED BY:

DATE



477

Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at 7933 Belair Road

which is presently zoned BR-CS-2
BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a restaurant, drive-thru with

outdoor seating.

FAST FOOD

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

~~Contract Purchaser/Leasee~~: Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Anthony K. Byrd

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Emil B. Pielke

Signature

(Type or Print Name)

Signature

7937 Belair Road

661-6629

Address

Phone No.

Baltimore, MD

City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Ave., B-7

410-494-8931

Address

Phone No.

Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

2 HRS

the following dates _____ Next Two Months

ALL ☒ OTHER ☐

REVIEWED BY: *JS* DATE: 6/24/93





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 7933 Belair Road

which is presently zoned BR-CS-2
BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

(1) SECTION 238.2 TO PERMIT A SETBACK OF 32' BETWEEN BUILDINGS IN LIEU OF THE REQUIRED 60' (2) A VARIANCE TO SECTION 301.1(A) AND 238.2 TO PERMIT AN OPEN PROJECTION (CANOPY) WITH A SETBACK OF 4 FEET IN LIEU OF THE REQUIRED 22.5 FEET MEASURED FROM THE PROPOSED BUILDING TO THE LEASE LINE. (3) SECTION 409.10 (B) TO PERMIT THE DRIVE-THRU LANE TO CROSS THE PRINCIPAL PEDESTRIAN ACCESS TO THE FACILITY. (4) SECTION 409.6 A(2) TO PERMIT 45 PARKING SPACES IN LIEU OF THE REQUIRED 64 SPACES. (5) SECTION 413.2 (F) TO PERMIT 316 SQ. FT. OF BUSINESS SIGNS IN LIEU OF THE MAXIMUM PERMITTED 100 SQ. FT. AND TO PERMIT 16 SIGNS (1 FREE STANDING, 7 DIRECTIONAL SIGNS, 2 SPEAKER POSTS AND 3 MENU BOARDS IN LIEU OF THE MAXIMUM PERMITTED 3 SIGNS ON ANY PREMISES). (6) A VARIANCE IS REQUESTED TO SECTION 413.1 E(3) TO PERMIT INTERNALLY ILLUMINATED DIRECTIONAL SIGNAGE WITH ADVERTISING ASPECTS (LOGO) IN LIEU OF PERMITTED NON-ILLUMINATED DIRECTIONAL SIGNAGE WITH NO ADVERTISING ASPECT.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee: Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City State Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Signature

(Type or Print Name)

Signature

7937 Belair Road

Address

661-6629

Phone No.

Baltimore, MD

City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Avenue, Suite B-7 494-8931

Address Phone No.
Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

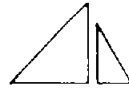
unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

WINDWARD



Incorporated

ASSOCIATES

CONSULTING ENGINEERS • PLANNERS • SURVEYORS

477
93-472-SPHXA

ZONING DESCRIPTION

#7933 & 7935 BELAIR ROAD
Fourteenth Election District
Baltimore County, Maryland

BEGINNING FOR THE SAME at a point on the Easterly right of way line of Belair Road (U.S. Route 1), said point being the following two (2) courses and distances from the centerline intersection of Belair Road and Rossville Boulevard, viz:

- A. South 49° 48' 20" East, 60 feet ±
- B. North 40° 46' 51" East, 77 feet ±

Thence from the point of beginning,

- 1. North 40° 46' 51" East, 89.90 feet,
- 2. Northeasterly by a curve to the left having a Radius of 11,511.16 feet, an arc distance of 55.26 feet, subtended by a chord of North 42° 02' 36" East, 55.26 feet,
- 3. South 49° 48' 20" East, 305.26 feet,
- 4. South 39° 28' 16" West, 176.23 feet,
- 5. North 49° 48' 20" West, 277.11 feet,
- 6. North 06° 42' 08" West, 45.05 feet to the point of beginning.

CONTAINING 1.2345 Acres (53,776 Sq.Ft.) of Land more or less.



15 South Parke Street Suite 400 Aberdeen, Maryland 21001
(410) 272-1441 (410) 575-6553
272-4963 (FAX)



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at

7933 Belair Road

which is presently zoned BR-CS-2

BR

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

- 1) a restaurant ~~drive-thru~~ ^{FAST FOOD} with outdoor seating as a use to be permitted by right in all of the business zones (BR, BM, and BL).
- 2) that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

~~Contract Purchaser/Lessor~~ Applicant

Taco Bell/Anthony Byrd

(Type or Print Name)

Signature

620 Herndon Parkway, Suite 200

Address

Herndon, VA 22070

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Emil B. Pielke

(Type or Print Name)

Signature

(Type or Print Name)

Signature

7937 Belair Road

661-6629

Address

Phone No.

Baltimore, MD

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

William Monk, Inc.

Name

222 Bosley Avenue, B-7 410-494-8931

Address Towson, MD 21204

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

93-472-SPHXH

District 14th Date of Posting 7/18/93

Posted for: Special Hearing, Exception & Variance

Petitioner: Emil Pietke & Tracy Bell

Location of property: 7933-36 Belair Rd., NE cor Belair & Russell Blvd

Location of Signs: Facing road way, on property of Petitioners

Remarks: _____

Posted by W. H. Healy Date of return: 7/19/93
Signature

Number of Signs: 3



NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number: 93-472-SPHXA
(Item 477)
7933-7935 Belair Road
Taco Bell
NEC Belair Road and
Rossville Boulevard
14th Election District
6th Councilmanic
Legal Owner(s):
Emil B. Pielke
Applicant:
Taco Bell
HEARING: TUESDAY,
AUGUST 3, 1993 at 10:00
a.m. in Rm. 118, Old
Courthouse.

Special Hearing: to approve a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Special Exception: for a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Circuit Court, this 2nd day of July 1993, the sale made and reported by Laurence B. Flader, Substitute Trustee appointed for the sale of the property described in and confirmed thirty (30) days from the date of this Notice, unless cause is shown to the contrary, be given to the person provided a copy of this Notice be inserted in some Newspaper published in this County, once in each of three (3) successive weeks. The report states the amount of the sale to be \$171,000.00. SUZANNE MENSH, Clerk.

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

7/15, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/15, 1993.

THE JEFFERSONIAN,

A. H. Hemickson
LEGAL AD. - TOWSON

Publisher

93-472-SPTXA



Baltimore County
Zoning Administration &
Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

Receipt

Account: R-001-6150

Number 477

Date 6/29/93

By JLL

(3) PETITIONS
TOTAL

VARIANCE	- 020	} = CODE 070 at \$650.00
SPECIAL HEARING	040	
SPECIAL EXCEPTION	050	
3 SIGNS	080	
		\$105.00
TOTAL:		\$755.00

OWNER PICKLE
7933-35 BELAIR RD.

02A02H0292M1CHRC
RA 0002332PH06-29-93

\$755.00

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

JULY 9, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-472-SPHXA (Item 477)
7933-7935 Belair Road - Taco Bell
NEC Belair Road and Rossville Boulevard
14th Election District - 6th Councilmanic
Legal Owner(s): Emil B. Pielke
Applicant: Taco Bell
HEARING: TUESDAY, AUGUST 3, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a restaurant, fast food, drive-thru with outdoor seating as a use to be permitted by right in all of the business zone; and that the requirements of Section 409.10(B) apply only to the stacking requirements per the individual use as set forth in Section 409.10(A).

Special Exception for a restaurant, fast food, drive-thru with outdoor seating.

Variance to permit a setback of 32 feet between buildings in lieu of the required 60 feet; to permit an open projection (canopy) with a setback of 4 feet in lieu of the required 22.5 feet measured from the proposed building to the lease line; to permit the drive-thru lane to cross the principal pedestrian access to the facility; to permit 45 parking spaces in lieu of the required 64 spaces; to permit 316 sq. ft. of business signs in lieu of the maximum permitted 100 sq. ft.; to permit 16 signs (1 free-standing, 7 directional signs, 2 speaker posts, and 3 menu boards) in lieu of the maximum permitted 3 signs on any premises; to permit internally illuminated directional signage with advertising aspects (logo) in lieu of the permitted non-illuminated directional signage with no advertising affect.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

cc: Emil B. Pielke/7937 Belair Road/Baltimore MD
Anthony Byrd/Taco Bell/620 Herndon Parkway#200/Herndon VA 20070
William Monk, Inc./222 Bosley Avenue #B-7/Towson MD 21204

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 28, 1993

Mr. William Monk
222 Bosley Avenue STE B-7
Towson, MD 21204

93

RE: Case No. ~~84~~-472-SPHXA, Item No. 477
Petitioner: Emil B. Pielke, et al
Petition for Special Exception, Special
Exception and Variance

Dear Mr. Monk:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 29, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Zoning Plans Advisory Committee Comments

Date: July 28, 1993

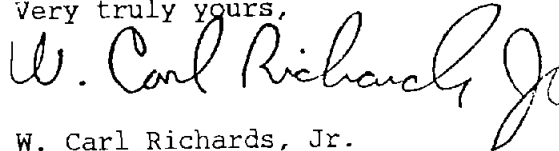
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

If you have any questions concerning the enclosed comments, please feel free to contact Helene Kehring in the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,



W. Carl Richards, Jr.
Zoning Coordinator

WCR:hek
Enclosures

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: July 19, 1993
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for July 19, 1993
Item No. 477

The Development Plan Review Division has reviewed the subject zoning item. The Concept Plan and Development Plan comments are still applicable to this site.

RWB:s

✓

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration & Development Management

DATE: July 23, 1993

FROM: Ervin McDaniel, Chief,
Development Review Section
Office of Planning and Zoning

SUBJECT: 7933 Belair Road
(TACO BELL/HOT 'N' NOW - ITEM No. 477)

SUMMARY AND RECOMMENDATIONS:

The Petitioner is requesting several variances for building setbacks, signage, a special exception for a restaurant fast food drive-thru with outdoor seating, a special hearing for a restaurant fast food drive-thru with outdoor seating as a use permitted by right in all business zones and the stacking requirement in Section 409.10(B) apply only to individual uses in Section 409.10(A). This project was also granted a limited exemption from the Development Regulations on May 24, 1993 (Section 26-171(B)(9)).

On May 14, 1993, a Concept Plan Conference was held on this Plan with a follow-up meeting and letter dated May 25, 1993 sent to Mr. Ping, Vice-President of Windward Associates, Inc., the engineer for this project. As a result of those meetings and letter, there are only two outstanding issues that this Plan does not address, 1) a bus shelter should be provided at this location and 2) a uniform architectural treatment tying the the two buildings together should be provided.

Staff recommends that the Developer of this site should provide a bus shelter at this location to encourage the use of transit by both employees and patrons.

Staff also recommends that there be a uniform architectural treatment connecting the two fast food restaurants. Since these two buildings are sharing the same site and within proximity, staff believes that the two structures should be connected in the manner shown on the attached sketch. By connecting the two structures architecturally, the visual appearance of the facilities would be greatly enhanced while maintaining each facility's identity and function.

Division Chief: Ervin McDaniel

EMCD:bjs

Attachment

CC: File

WILLIAM MOOK, INC.

PLANNING • LANDSCAPE DESIGN
ENVIRONMENTAL RESOURCE MANAGEMENT

COURTHOUSE COMMONS, SUITE B-7
222 BOSLEY AVENUE, TOWSON, MD 21204

LETTER OF TRANSMITTAL

DATE 6/23/93	OUR JOB NO. 93-30
FILE NO.	YOUR JOB NO.
ATTENTION	
RE: 9733 9735 BELAIR ROAD	

TO **BALTIMORE COUNTY**
OFFICE OF PLANNING & ZONING

GENTLEMEN:

WE ARE SENDING YOU ☐ Attached ☐ Under separate cover via _____ the following items:

- ☐ Shop drawings ☒ Prints ☒ Plans ☐ Samples ☐ Specifications
☐ Copy of letter ☐ Change order ☐

DRAWING NO.	FILE NO.	DESCRIPTION	ACTION
	(3)	PETITIONS FOR VARIANCE	
	(3)	PETITIONS FOR SPECIAL EXCEPTION	
	(3)	PETITIONS FOR SPECIAL HEARING	
	(3)	ZONING RESOLUTIONS	
	(1)	APPLICATION FEE 755.00	
		CHECK #	
	(12)	PRINTS	
	(1)	ZONING MAP (200 SCALE)	

THESE ARE TRANSMITTED as checked below:

- ☒ For approval ☐ As requested ☐ Submit _____ copies for distribution
☐ For your use ☐ Resubmit _____ copies for approval ☐ Return _____ corrected prints
☐ For review and comment ☐ _____
☐ FOR BIDS DUE _____ 19____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS:

COPY TO: **ANTHONY BYRD**

SIGNED: **W. Mook**

If enclosures are not as noted, kindly notify us at once.

RE: PETITION FOR SPECIAL HEARING, : BEFORE THE ZONING COMMISSIONER
SPECIAL EXCEPTION AND VARIANCE
NEC Belair Rd. & Rossville : OF BALTIMORE COUNTY
Blvd (7933-7935 Belair Rd.
Taco Bell), 14th Election Dist. : Case No. 93-472-SPHXA
6th Councilmanic Dist.
:
EMIL B. PIELKE, Owner
TACO BELL/ANTHONY BYRD, :
Applicant :

: : : : :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio

Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 22nd day of July, 1993,
a copy of the foregoing Entry of Appearance was mailed to Emil B. Pielke,
7937 Belair Rd., Baltimore, MD 21236; Taco Bell/Anthony Byrd, 620 Herndon
Parkway, Suite 200, Herndon, VA 22070; and William Monk, Inc., 222 Bosley
Ave., B-7, Towson, MD 21204.

Peter Max Zimmerman

Peter Max Zimmerman